



PHD

The Implementation of Information and Consultation of Employees Regulations in Great Britain

Sarvanidis, Sofoklis

Award date:
2010

Awarding institution:
University of Bath

[Link to publication](#)

Alternative formats

If you require this document in an alternative format, please contact:
openaccess@bath.ac.uk

Copyright of this thesis rests with the author. Access is subject to the above licence, if given. If no licence is specified above, original content in this thesis is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC-ND 4.0) Licence (<https://creativecommons.org/licenses/by-nc-nd/4.0/>). Any third-party copyright material present remains the property of its respective owner(s) and is licensed under its existing terms.

Take down policy

If you consider content within Bath's Research Portal to be in breach of UK law, please contact: openaccess@bath.ac.uk with the details. Your claim will be investigated and, where appropriate, the item will be removed from public view as soon as possible.

THE IMPLEMENTATION OF INFORMATION AND CONSULTATION OF EMPLOYEES REGULATIONS IN GREAT BRITAIN

Sofoklis Sarvanidis

A thesis submitted for the degree of Doctor of Philosophy

University of Bath

School of Management

November 2010

COPYRIGHT

Attention is drawn to the fact that copyright of this thesis rests with its author. This copy of the thesis has been supplied on condition that anyone who consults it is understood to recognise that its copyright rests with its author and that no quotation from the thesis and no information derived from it may be published without the prior written consent of the author.

This thesis may be made available for consultation within the University Library and may be photocopied or lent to other libraries for the purposes of consultation.

ACKNOWLEDGEMENTS

The invaluable support and academic experience of Peter Cressey, John Purcell and Gregory Schwartz¹ substantially contributed towards the development and completion of the research project. Additional acknowledgements are attributed to Gill Dix, Sarah Oxenbridge and Keith Sisson² whose practical expertise, as officers and members of Research and Evaluation Section at the Advisory Conciliation and Arbitration Service (ACAS), is really remarkable and their involvement was critically important at the early stage of the research. Furthermore, the invaluable help and support of Maxwell Harris is gratefully acknowledged with regard to the proofreading process.

Many thanks to the Doctoral students: Aristeia Koukiadaki (University of Warwick) and Elaine Bull (University of Kent), whose insight, exceptional ideas and common research interests further stimulated the conduct and completion of research. Gratitude is also expressed to the interviewees (i.e. employee, trade union and management representatives), especially the HR managers, who allowed and permitted the required access for carrying out the empirical fieldwork in the participant case-study organisations.

Special thanks to all the beloved friends in Great Britain and Greece, colleagues at the University of Bath, fellow-members of the Work and Employment Research Centre (WERC), and also my dearly-loved family in Greece, whose strong emotional support and fellowship distinctively motivated the progress of the PhD thesis.

Last but not least, the support of Economic and Social Research Council (ESRC) along with the collaboration of ACAS and the University of Bath, are gratefully acknowledged for the initiation and completion of the PhD Thesis. More specifically, the research project was awarded a Collaborative-CASE Research Scholarship/Studentship (+3) (ESRC Award Number: PTA-033-2004-00016).

¹ Peter Cressey is a Reader in Sociology and Industrial Relations in the Department of Social and Policy Sciences at the University of Bath.

John Purcell is a Research Professor in the Industrial Relations Research Unit of the Business School at the University of Warwick and strategic academic advisor at ACAS.

Dr Gregory Schwartz is Lecturer in Organisation Studies and member of the Work and Employment Research Centre in the School of Management at the University of Bath.

² Dr Gill Dix is the Head and Principal Officer of Research and Evaluation Section at ACAS. Dr Sarah Oxenbridge and Professor Keith Sisson were research officers at ACAS during the initial stages of the research project.

ABSTRACT

The thesis focuses on the impact of the EU Directive (2002/14/EC), which was incorporated into UK employment law, with its phased implementation starting on 6th April 2005. The empirical evidence is based on a survey and predominantly on case-study research that involved interviews with: managers, employees and trade union representatives, together with the collection of relevant documentary evidence. The empirical findings, especially for the non-unionised sector, indicate that the reflexive nature of the Information and Consultation of Employees (ICE) Regulations has mainly stimulated the development of organisation-specific or tailor-made information and consultation arrangements, which minimally comply with the legislative provisions. Moreover, the development of such arrangements is primarily based on the ad hoc momentum that is generated by business pressures (i.e. collective redundancies, transfer of undertakings etc) and can be viewed as reflecting the conceptual framework of legislatively prompted voluntarism.

The ICE Directive is aimed at bringing a consistency to the establishment of basic and standard information and consultation arrangements across the workplaces in Great Britain. Subsequently, it should promote the harmonisation of employee participation practices amongst the UK and other EU countries, as it has the goal of ensuring that there is a minimum floor of rights in relation to information sharing and consultation with employees. Nevertheless, the Europeanisation of British industrial relations cannot instantly take place through the adoption of such EU directives. With regard to this research endeavour, it emerges that the extant national idiosyncrasies cannot be substantially altered, whilst business pressures and employers' goodwill continue to be key drivers in the development of employee participation and consultation arrangements in Great Britain, albeit within the newly adopted legislative and statutory framework.

Keywords: consultation, employee involvement and participation, EU Directive, industrial relations, information-sharing, trade unions.

Total Number of Words of the 'Main Report' (Approximately): 89,225.

TABLE OF CONTENTS

	Chapter 1: Introduction to the Research Topic	1
1.1	Introduction	1
1.1.1	Overview	1
1.1.2	Consultation and Collective Voice of Employees in the UK	2
1.1.3	Future Potential Prospects of Information and Consultation Arrangements in the UK	6
1.2	Focus of the Research	8
1.2.1	Other Surveys and Research Projects	8
1.2.2	Research Objectives and Questions	8
	Chapter 2: Literature Review	11
2.1	Outline of EU Legislation on Employee Involvement and Participation	11
2.1.1	European Social Model and Dimension	11
2.1.2	The Influence of EU Directives and Regulations on British Industrial Relations	15
2.1.3	The Signing of the Social Chapter by the UK Government (1997)	18
2.1.4	Debate and Implications about EU Directives and Regulations	21
2.2	Meanings and Definitions of Information-Sharing and Consultation of Employees	26
2.3	Information and Consultation of Employees (ICE) Regulations 2004	33
2.3.1	Overview	33
2.3.2	Debate about the ICE Regulations: Views from the Government and Social Partners	38
2.3.3	Contextual and Organisational Factors Affecting Information and Consultation Arrangements	46
2.3.4	Changes and Adjustments to Information and Consultation Arrangements: Strategies and Approaches Adopted by Employers, Managers and Trade Unions	49
2.3.5	ICE Regulations: Challenges and Opportunities for Management, Individual Employees and Trade Unions	53
2.3.5a	Industrial Democracy and Social Partnership in the Workplaces	53
2.3.5b	Challenging Management Prerogative and Influencing Decision-Making	56
2.3.6	Debate about the Implications of the ICE Regulations	61
2.3.7	Legislatively Prompted Voluntarism: A Potential Conceptual Framework for Understanding the Implications of the ICE Regulations?	68
2.3.8	ICE Regulations: An Opportunity for Unitarism or Pluralism?	71
2.3.9	Information and Consultation Arrangements: A Low or High Road Approach?	73
2.4	Synopsis and Summary	74

2.5	Outline of Research Focus	79
	Chapter 3: Research Methodology	82
3.1	Introduction	82
3.2	Using a Qualitative Framework	83
3.3	Epistemological Assumptions	83
3.4	Selection of Case-Study Organisations for the Purposes of the Research	85
3.5	Limitations of the Case-Study Research	91
3.6	Interviewing and Non-Participant Observation for the Purposes of the Research	92
3.7	Limitations in Conducting the Interviews	95
3.6	Summary	97
	Chapter 4: Analysis of the Survey	99
4.1	Introduction	99
4.2	Direct Forms of Employee Involvement and Participation	101
4.3	Indirect Forms of Employee Involvement and Participation	102
4.4	Nature of the Issues Covered in Information-Sharing and Consultation with the Employees	110
4.5	Summary	111
	Chapter 5: Case-Study One	112
5.1	Organisation's Structure and Employee Representation	112
5.1.1	Introduction	112
5.1.2	The Felixstowe Site	113
5.1.3	The Manchester Site	115
5.1.4	Overview	116
5.2	Interviews and Collection of the Qualitative Data	117
5.3	The CCC Meetings at the Felixstowe Site	118
5.3.1	Adjustments and Reviews – The Impact of the ICE Regulations	118
5.3.2	The Composition of the CCC Meetings	121
5.3.3	The Purpose and Role of the CCC Meetings	123
5.3.4	Agenda and Issues for Discussion During the CCC Meetings	124
5.3.5	Non-Participant Observation of a CCC Meeting (on 11th May 2006)	126
5.4	ICE Regulations: Current Attitudes of Trade Unions, Individual Employees and Management	127
5.4.1	Employee Involvement Arrangements and Representation Structures	127
5.4.2	Benefits and Problems of Sustaining the Information and Consultation Arrangements	130
5.4.3	Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing	134
5.4.4	Evaluation of the ICE Regulations: Limitations and Challenges	138

5.4.5	The Importance and Influence of Trade Union Strategies in the Development of Information and Consultation Arrangements	143
5.5	ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces. Discussion and Summary	145
5.5.1	The Manchester Site	145
5.5.2	The Felixstowe Site	149
	Chapter 6: Case-Study Two	152
6.1	Organisation's Structure and Employee Representation	152
6.2	Interviews and Collection of the Qualitative Data	152
6.3	Employee Voice Arrangements	154
6.3.1	Information and Consultation Arrangements	154
6.3.1.1	The Head Office in Somerset – Impact of the ICE Regulations	154
6.3.1.2	Consultation and Negotiation Union-Based Arrangements at the Depot Sites in Bridgwater	156
6.3.2	The Composition of the Staff Council at the Head Office in Somerset	156
6.3.3	Agenda and Issues for Discussion on the Consultative Council at the Head Office in Somerset	157
6.3.4	Agenda and Issues for Discussion on the Consultative Council at the Depot Sites in Bridgwater	158
6.4	ICE Regulations: Current Attitudes of Trade Unions, Individual Employees and Management	160
6.4.1	Employee Involvement Arrangements and Representation Structures	160
6.4.2	Benefits and Problems of Sustaining the Information and Consultation Arrangements	166
6.4.3	Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing	173
6.4.4	Evaluation of the ICE Regulations: Limitations and Challenges	176
6.5	ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces. Discussion and Summary	183
	Chapter 7: Case-Study Three	187
7.1	Organisations' Structure and Employee Representation	187
7.2	Interviews and Collection of the Qualitative Data	187
7.3	The Store Council Meeting in Yeovil	189
7.3.1	Adjustments and Reviews – The Impact of the ICE Regulations	189
7.3.2	The Composition of the Store Council	190
7.3.3	The Purpose and Role of the Store Council Meetings	191
7.3.4	Agenda and Issues for Discussion During the Store Council Meetings	193
7.3.5	Non-Participant Observation at the Store Council Meeting in Yeovil	193

7.4	ICE Regulations: Current Attitudes of Individual Employees and Management	193
7.4.1	Employee Involvement Arrangements and Representation Structures	193
7.4.2	Benefits and Problems of Sustaining the Information and Consultation Arrangements	196
7.4.3	Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing	200
7.4.4	Evaluation of the ICE Regulations: Limitations and Challenges	202
7.5	ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces. Discussion and Summary	204
	 Chapter 8: Case-Study Four	 207
8.1	Organisation's Structure and Employee Representation	207
8.2	Interviews and Collection of the Qualitative Data	208
8.3	Information and Consultation Arrangements	208
8.3.1	Setting up of the Information and Consultation Forum – The Impact of the ICE Regulations	208
8.3.2	The Composition of the Information and Consultation Forum	212
8.3.3	The Purpose and Role of the Information and Consultation Forum Meetings	213
8.3.4	Agenda and Issues for Discussion During the Information and Consultation Forum Meetings	215
8.4	ICE Regulations: Current Attitudes of Trade Unions, Individual Employees and Management	218
8.4.1	Employee Involvement Arrangements and Representation Structures	218
8.4.2	Benefits and Problems of Sustaining the Information and Consultation Arrangements	219
8.4.3	Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing	221
8.4.4	Evaluation of the ICE Regulations: Limitations and Challenges	223
8.5	ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces. Discussion and Summary	228
	 Chapter 9: Discussion of the Research Findings and Empirical Evidence	 232
9.1	Organisational Responses to the ICE Regulations: Evidence and Comparative Review of the Case-Studies	232
9.2	Changes and Modifications due to the ICE Regulations: Strategies Adopted by Management, the Trade Unions, and Individual Employees	238
9.2.1	Employers and Managers	238
9.2.2	Individual Employees and Trade Unions	241

9.3	ICE Regulations: An Opportunity for Trade Unions and Individual Employees?	248
9.3.1	Challenging Management Prerogative and Influencing Decision-Making	248
9.3.2	True-Consultation or Pseudo-Consultation?	254
9.4	Legislatively Prompted Voluntarism: A Potential Conceptual Framework for Understanding the Implications of the ICE Regulations?	258
9.5	The Evolutionary Impact of the ICE Regulations	263
9.5.1	An Opportunity to Strengthen Industrial Democracy and Employee Voice Arrangements in the Workplaces?	263
9.5.2	An Opportunity to Harmonise the Context of British Industrial Relations with EU Employment Policy?	268
	Chapter 10: Conclusions and Future Prospects	272
10.1	Initial Implications from the Implementation of the ICE Regulations	272
10.2	Epilogue and Synopsis	276
10.3	Future Prospects and Further Research	280
	Bibliography – References	283
	Appendices and Notes:	320
	Information and Consultation of Employees (ICE) Regulations 2004: An Overview	320
	Questionnaire for the Survey	325
	Presentation and Analysis of Findings from the Survey	340
	I. Direct Forms of Employee Involvement and Participation	340
	II. Information-Sharing with Employees	350
	III. Consultation with Employees	361
	Interview Schedule	372
	I. Interview Questions with Trade Union and Employee Representatives	372
	II. Interview Questions with Chief Executives and HR Managers or Other Managers	375
	Case-Study One	380
	I. Use of Various Forms of Direct Employee Involvement and Participation at the Felixstowe and Manchester Sites	380
	II. Use of Various Forms of Indirect Employee Involvement and Participation at the Felixstowe and Manchester Sites	380

III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Felixstowe Site	381
IV. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Manchester Site	382
V. Roles and Responsibilities for Management and Employee Representatives at the Felixstowe Site as Defined by the Constitution Agreement of the CCC Meetings	383
 Case-Study Two	 385
I. Use of Various Forms of Direct Employee Involvement and Participation at the Bridgwater Depot	385
II. Use of Various Forms of Indirect Employee Involvement and Participation at the Bridgwater Depot	385
III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Bridgwater Depot	386
 Case-Study Three	 387
I. Use of Various Forms of Direct Employee Involvement and Participation at the Yeovil Store	387
II. Use of Various Forms of Indirect Employee Involvement and Participation at the Yeovil Store	387
III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Yeovil Store	388
 Case-Study Four	 389
I. Use of Various Forms of Direct Employee Involvement and Participation at the Main Head Office and the Warehouse	389
II. Use of Various Forms of Indirect Employee Involvement and Participation at the Main Head Office and the Warehouse	389
III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Main Head Office and the Warehouse	390

LIST OF TABLES

2.1	The Dynamics of Employee Participation Practices in Relation to their: Degree, Level, Range and Form. Adapted from Marchington and Wilkinson (2005b: p. 400). Also Cited in Dundon et al. (2003: pp. 20-21)	31
3.1	Key Features in the Selection of Case-Studies	90
3.2	List of Interviews with Trade Union Representatives, Individual Employees and Management Representatives	96
4.1	Background of the Organisations that Responded to the Survey	100
4.2	Sectoral Categorisation of Organisations	101
4.3	Level of Knowledge of the ICE Regulations	101
4.4	The Use of European Works Councils in the Unionised and Non-Unionised Sectors	103
4.5	Non-Routinised Written Communications or Other Forms of Indirect Participation	103
4.6	The Use of Joint Consultative Committees in the Unionised and Non-Unionised Sectors	104
4.7	Joint Consultative Committees and Trade Union Membership	105
4.8	Organisational Responses and Intended Actions as a Result of the ICE Regulations	107
4.9	Organisational Responses to the ICE Regulations and Use of Joint Consultative Committees	108
4.10	Organisational Responses to the ICE Regulations and Trade Union Membership	108
4.11	Possibility of There Being Endorsement of a Request for New Information and Consultation Arrangements	109
4.12	Perceived Impact on the Employment Relations	109
4.13	Impact on the Climate of Employment Relations	110
5.1	Composition of the Participant Representatives on the Consultative Council at the Felixstowe Site (Source: Constitution Agreement Document, April 2005: p. 4) – Case Study One	122
5.2	Composition and Roles of the Participant Representatives on the Consultative Council at the Felixstowe Site (Source: Constitution Agreement Document, April 2005: pp. 4-5 and pp. 8-10) – Case Study One	123
6.1	Composition of the Participant Representatives on the Consultative Council (Staff Forum) at the Head Office in Somerset (Source: Constitution Agreement Document) – Case Study Two	153
7.1	Composition of the Participant Representatives on the Consultative/Store Council in Yeovil (Source: Constitution Agreement Document) – Case Study Three	190

8.1	Composition of the Participant Representatives on the Information and Consultation Forum (i.e. the Bridge Council) at the Main Head Office and Warehouse (Source: Minutes of the Bridge Council, November 2006: p. 1) – Case Study Four	213
9.1	Overview of Empirical Findings from the Case-Study Research	233
9.2	The Use of Joint Consultative Committees in the Unionised and Non-Unionised Sectors	237
9.3	Organisational Responses to the ICE Regulations	237
9.4	Likelihood of Endorsing a Request for New Information and Consultation Arrangements	245

LIST OF FIGURES

2.1	The Continuum of Employee Involvement. Adapted from Cressey et al. (1985: p. 8)	28
2.2	The Continuum of Employee Involvement. Adapted from Blyton and Turnbull (2004: p. 255)	29
2.3	The Escalator of Participation. Adapted from Marchington and Wilkinson (2005b: p. 401)	29
2.4	Voice Systems and Management Style. Adapted from Boxall and Purcell (2003: p. 180)	50
2.5	Strategies and Objectives of Non-Union Employee Voice Arrangements. Adapted from Gollan (2000: p. 415) and Also Cited in Dundon and Gollan (2007: p. 1190)	52
4.1	The Use of Joint Consultative Committees or Employee Representatives Bodies	105
4.2	Organisational Responses to the ICE Regulations	107

LIST OF ABBREVIATIONS AND ACRONYMS

2002/14/EC	The EU Information and Consultation Directive
ACAS	Advisory Conciliation and Arbitration Service
ADC	Automated Distribution Centre
BERR	Department for Business Enterprise and Regulatory Reform
BRIDGE	Board for Representation, Information and Debate and Guidance for Employees
CAC	Central Arbitration Committee
CBI	Confederation of British Industry
CBU	Convenient Business Unit
CCC	Consultative and Communication Committee or Company Consultative Committee
CEO	Chief Executive Officer
CIPD	Chartered Institute of Personnel and Development
DE	Divisional Executive
DM	District Manager
DSM1	Section Manager from the Department of Fashions
DSM2	Section Manager from the Furniture Store
DSM3	Section Manager from the Cook-Shop Store
DTI	Department of Trade and Industry
EAT	Employment Appeal Tribunal
EC	European Community
ECC	European Company Council
ECJ	European Court of Justice
ECS	European Company Statute
EEF	Engineering Employers' Federation
ETUC	European Trade Union Confederation
ETUI-REHS	European Trade Union Institute for Research, Education and Health and Safety
EU	European Union
EWC	European Works Council
EWCB	European Works Councils Bulletin
FSR	Field Support Representative
HRM (or HR)	Human Resource Management (or Human Resource)
HS	Health and Safety
HSE	Health, Safety and Environment
ICE Directive	Information and Consultation of Employees Directive

ICE Regulations	Information and Consultation of Employees Regulations (2004)
ICF	Information and Consultation Forum/Panel
IDS	Incomes Data Services
IELL	International Encyclopaedia for Labour Law
IPA	Involvement and Participation Association
IRS	Industrial Relations Services
JCCs	Joint Consultation/Consultative Committees
LRD	Labour Research Department
MIS	Management Information Systems
PEA	Pre-Existing Agreement
Q&A Sessions	Questions and Answers Sessions
QHSE	Quality, Health, Safety and Environment
QMV	Qualified Majority Voting
STCs	Short-Term Contracts
TGWU	Transport and General Workers' Union
TUC	Trade Union Congress
TUPE	Transfer of Undertakings (Protection of Employment)
UK	United Kingdom
UNISON	UNISON was created in 1993 through the merger of several unions, including the National Union of Public Employees (formed 1905) and the Confederation of Health Service Employees (formed 1910)
UNITE or Unite	Unite the Union was initially formed on 1 st May 2007 and is a merger of a) Amicus the union, and b) TGWU
US or USA	United States of America
USDAW	Union of Shop, Distributive and Allied Workers
WERS	Workplace and Employment Research Survey
WMERF	West Midlands Employment Relations Forum

CHAPTER ONE

INTRODUCTION TO THE RESEARCH TOPIC

1.1 Introduction

1.1.1 Overview

Employee participation is one of the key areas of EU employment policy that is regulated through directives and legal initiatives (Gold, 2009). One recent example is the implementation of the Information and Consultation of Employees (ICE) Directive³ (European Commission, 2002; cited in Cressey, 2009: p. 151). This EU Directive (2002/14/EC) is described as an attempt to bring “*harmony*” to employee participation amongst EU member states, through the establishment of a general framework and floor of statutory rights for informing and consulting with employees (Broughton, 2002: p. 217). Various definitions of employee participation can be found in the academic literature. For instance, Dundon et al. (2003: p. 20) define it as:

“... the extent to which employees are represented in organisational decision-making, and the mechanisms for this can be either direct (management deals directly with employees) or indirect (management deals with employee representatives). Techniques can include self-managed teams, joint consultative committees or negotiating bodies...”.

Dundon and Wilkinson (2009: p. 407) suggest that employee involvement is connected with “*managerial initiatives designed to elicit employee commitment*”. Furthermore, Higgins and Croucher (2008: p. 327) point out that participation gives to the employees the chance to “*influence and take part*” in management decision-making. Moreover, employee voice mechanisms are seen as being strongly tied to employee participation practices and can be broadly denoted as an “*opportunity for employees to ‘have a say’ about matters that affect them at work*” (Dundon et al., 2003: p. 12).

³ Hereinafter cited as ICE Directive.

Across EU member states there are notable differences in “...*histories, traditions, customs and practices...*” (Broughton, 2005: p. 200) and these actually impede the implementation of “*simple legislative devices*” at the EU level (Cressey, 1993: p. 86), in relation to the issues of employee participation. Nevertheless, the ICE Directive is viewed as a EU employment policy that can potentially bring a convergence in employee participation practices amongst member states as soon as they put in place “*a permanent and statutory framework for employee information and consultation*” (Dundon and Wilkinson, 2009: p. 413).

1.1.2 Consultation and Collective Voice of Employees in the UK

In terms of joint consultation, the industrial relations system “...*has a long and somewhat checkered history in Britain...*” (Marchington and Armstrong, 1986: p. 158). For instance:

“...the most normal method of conducting consultation was through works councils. Large scale development dated from the first world war and the impetus given by the Whitley Committee reports in 1917 and 1918. The councils are not required by law and have been founded normally as a result of a management initiative but sometimes as a result of a trade union or employees’ initiative, or even of a collective agreement...”
(Bulletin of the European Communities, 1975: p. 95).

During the 1940s, joint consultation constituted a substantial part of employee voice with regard to UK workplaces (Clegg, 1979). However, during the 1950s and 1960s it significantly declined (Brannen, 1983) and this was attributed to the resurgence of joint negotiating committees (Clegg, 1970; cited in Brown and Nash, 2008: p. 101). From the beginning of 1970s onwards this tendency was reversed, with there being a notable revitalisation in terms of the numbers of joint consultation committees (JCCs) (Marchington and Armstrong, 1986; Brown, 1981).

According to the available empirical evidence, this revitalisation or resurgence can be mainly attributed to the fact that employers supported the idea of establishing “*voluntary consultation bodies*” (Brannen, 1983: p. 63) and in this regard management promoted the “*concept of industrial democracy and [employee] participation...as a response to the threat of legislation*” (Cressey et al., 1981: p. 54).

It is argued that on some occasions these councils were a result of trade union or employee initiatives based in some instances on collective agreements⁴ and this particularly became evident from the beginning of 1970s onwards (Gordon-Brown, 1972). More specifically:

“Shop stewards, normally elected by union members in particular establishments under systems of varying formality, have played an important part in this development [i.e. single channel for consultation and negotiation]. The merger of the machinery of consultation and negotiation is often a significant aspect of ‘joint regulation’ which was discussed in connection with the collective bargaining. The ability of management to take decisions unilaterally has in some sectors been substantially reduced by this kind of development...” (Bulletin of the European Communities, 1975: p. 96).

Furthermore, between the mid 1980s and the end of 1990s there was a substantial decline in indirect forms of participation and collective voice, especially in the form of JCCs, coupled with an increase in the direct forms of communication between management and employees (Millward et al., 2000: p. 109; cited in Blyton and Turnbull, 2004: p. 265). This decline in collective voice in the UK continued thereafter, but to a lesser extent, with the most recent Workplace Employment Relations Survey (WERS 2004) providing further evidence of this trend (Kersley et al., 2006). Furthermore, there was also an increase in information-sharing up until the end of 1990s, with *“a levelling off thereafter”* (Peccei et al., 2007: p. 4). In general, consultation has not declined as much as collective bargaining and in fact there are some indications that it has started to increase slowly in the private sector (Gospel and Willman, 2003). In this regard, other recent surveys have shown that the previously negative trend is now in reverse (CBI, 2006; IRS, 2005; LRD, 2006; cited in Hall et al., 2007: p. 7), especially in relation to UK multinational companies (Edwards et al., 2007).

According to other recent empirical evidence, since the end of 1990s there has also been a consistent strengthening in the forms of collective representation through trade union forums and JCCs or works councils (cited in Brewster et al., 2007b: pp. 1254-

⁴ Bulletin of the European Communities (1975) *Employee Participation and Company Structure in the European Community*, (Supplement 8/75), European Communities Commission – p. 96.

1259). Overall, it appears that in unionised workplaces “*permanent consultation mechanisms*” are quite evident and cover a range of issues, but they are kept separate from “*negotiating forums*” (Torrington et al., 2005: p. 482). More specifically:

“...in Britain, voluntary collective bargaining and voluntary joint consultation have traditionally been seen as separate and complementary processes, with collective bargaining focusing on the divergent interests of employers and employees and consultation focusing on their common interests... in many cases, collective bargaining has been concerned with pay determination and conditions of employment and joint consultation with welfare, health and safety, training and efficiency...” (Farnham, 2000: pp. 81-82; cited in Torrington et al., 2005: p. 482).

In general, single channels of representation through the unions appear to be the most common form of employee voice in the UK, but sometimes these are supplemented by joint representation bodies or JCCs. In addition, statutory or collective agreements are often simultaneously evident as forms of employee representation.

Moreover, influence, recognition and membership of the trade unions steadily declined during the 1980s and 1990s (Millward et al., 2000) which can be predominantly attributed to the “*...legal abstention...under the Conservative governments (1979-1997)...*” (Perrett, 2007: p. 620), but this tendency became less evident after the end of 1990s (Grainger and Holt, 2005), especially after the election of the Labour government in 1997. According to WERS, from 1984 to 1998, over 80 per cent of workplaces were reported to have “*two-way forms of communication between employers and employees*”, whilst hybrid forms of union and non-union voice mechanisms were widely expanding during this period as well (Willman et al., 2007: p. 1321). In addition, analysis of the WERS shows that the decline of trade unions was much smaller between 1998 and 2004.

Nonetheless, as yet, the proportion of workplaces with forms of employee representation continues to fall and the volume of collective bargaining is still shrinking (cited in Kersley et al., 2006: p. 143). Similarly, analysis of the WERS suggests that there has been an ongoing “*decline in collective voice and thus an increase in workplaces with no-voice arrangements*” (Wood and Fenton-O’Creevy,

2005: p. 28). Furthermore, Brown and Nash (2008) use the findings of WERS 1998/2004 and point out that “... *workplace-level consultative committees, which had been present at 20% of workplaces in 1998, were reported in only 14% in 2004...*” (p. 102). However, the “*decline*” of JCCs is much less evident in unionised workplaces (Gospel and Willman, 2005: p. 131), with these being “*twice as common*” in unionised than in non-unionised workplaces (cited in Millward et al., 2000: pp. 108-109) and these tend to be evident “*in parallel with collective bargaining machinery*” (Torrington et al., 2005: p. 483). In particular, according to Kersley et al. (2006):

“...there had been a decline in the incidence of consultative committees at workplace level since 1998, when one-fifth of establishments had such arrangements for consulting their staff. The decline was primarily evident among workplaces with less than 100 employees, where the percentage of workplaces with on-site committees fell from 17% in 1998 to 10% in 2004. Among workplaces with 100 or more employees, the incidence remained stable (56% in 1998, compared with 54% in 2004). The decline was also concentrated within workplaces that did not recognise trade unions, where the incidence of a workplace-level consultative committee fell from 14% in 1998 to 8% in 2004. Among workplaces that did recognize unions, the proportion with a workplace-level committee remained unchanged (32% in 1998; 29% in 2004)...” (pp. 126-127).

Furthermore, the use of direct forms of communication in UK workplaces remains prevalent, whilst there is also a “...*growth of direct voice arrangements...*” (Gospel and Willman, 2005: p. 132). Overall, empirical findings from the analysis of the WERS for 2004 indicate that the “...*proportion of workplaces with consultative committees...*” has not changed significantly, but that “...*the previous downward trend had continued...*” (Carley and Hall, 2008: p. 29). On the other hand, some academics anticipate that this downward trend will be potentially reversed and collective voice mechanisms, especially JCCs, will hopefully increase and be enhanced in future years (Dietz and Fortin, 2007), along with multi-channel representation (Gospel and Willman, 2005). In particular, according to an IDS survey (2005) forms of consultation increased from 49 to 68 per cent (two years before the enactment of the legislation) and this has been attributed to the imminent implementation of the ICE Directive on employee consultation (cited in Cressey,

2009: pp. 154-155). However, Hall (2006) has expressed reservations about this optimism.

1.1.3 Future Potential Prospects of Information and Consultation Arrangements in the UK

In general, empirical evidence from British workplaces indicates that consultation and also negotiation arrangements tend to prosper best in the unionised sector, where well-structured and effective forms of employee representation are more likely to have evolved (Charlwood and Terry, 2007). In addition, there is a strong belief that “*in the shadow of the law*” the mechanisms of information-sharing and consultation will become more widespread (in both union and non-unionised workplaces) through the transposition of the EU directives into the UK domestic legislation on employee participation (Peccei et al., 2008: p. 346). For instance, the recent ICE Directive (2002/14/EC), which is also known as the Information and Consultation of Employees (ICE) Regulations 2004⁵, was initially implemented in April 2005 for the first threshold of organisations with at least 150 employees, becoming fully operational in the UK in April 2008, thus now providing a legislative framework for informing and consulting employees about general enterprise issues and business decisions for organisations with at least 50 employees (an overview of the legislation is provided in section 2.3.1). Nonetheless, Hall (2006) has expressed strong scepticism about the likely impact of this legislation and other academics have argued that “*apathy*” from employers and employees may subsequently lead to nothing more than “*a little change*” (Gollan and Wilkinson, 2007a: p. 1137).

For Bulgaria, the Republic of Cyprus, Malta, Poland, the Republic of Ireland, Romania and the UK, the adoption of the ICE Directive establishes, for the first time, “*a general statutory system of information and consultation*” (Carley and Hall, 2008: p. 8). In this regard, hitherto consultation arrangements in the UK have been flexibly designed and primarily implemented for various reasons that range from what could be termed unforeseen business pressures (such as: collective redundancies, transfer of undertakings etc) to “*routine activity*” (Gollan and Perkins, 2007: p. 94) and thus

⁵ Hereinafter cited as ICE Regulations.

have continued to be seen as “*soft law*” mechanisms (Doherty, 2008: p. 610). That is, in general, such EU directives have been:

“...binding but require appropriate legislation from each member state within a set period of time to comply with the objectives of the directive. These are formulated in broad terms, allowing member states flexibility to interpret specific provisions...”
(Marchington and Wilkinson, 2005: p. 51).

As a consequence, prior to the implementation of the ICE Regulations JCCs operated within a weak or absent legislative framework, with their development predominantly originating from the unilateral initiatives of employers and managers on a voluntary basis. Similar forms of employee representation in other EU countries, such as works councils in: Germany, Austria, Benelux and the Nordic countries, have operated for many years within a much more legally comprehensive and binding industrial relations context, where consultation and codetermination rights are strongly tied to employee voice mechanisms.

To date, the features of voluntarism have strongly characterised British industrial relations, with there being a widespread belief that the: state, government and employment law should not intervene in employment related issues, such as: collective bargaining, employee participation and trade union organisation. However, the recent implementation of the ICE Regulations challenges the non-regulatory nature of British industrial relations with regard to employee participation. In particular in this regard, the ICE Directive provides, for a first time, a general statutory framework in which employers must share information and consult with their employees over a wide scope of organisational and employment issues, once either the employers/managers voluntarily choose to introduce the establishment of consultation mechanisms or employees vote to request the implementation of such mechanisms.

In relation to employee rights, a number of academics have expressed the belief (Gollan and Wilkinson, 2007) that such EU directives, which constitute an important parameter of the “*European social agenda*” (Blyton and Turnbull, 2004: p. 253), could potentially radically change the context of employment participation in Great

Britain. For instance, Benson (2009: p. 117) suggests that “...for the foreseeable future... European law is likely to continue to exert a significant impact on UK employment law and practice in a variety of ways...”. In sum, the flexible provisions contained in the ICE Regulations allow for a range of options with regard to: management, individual employees and trade union representatives. Thus, it remains to be seen the extent to which these provisions can assist in the development of employee representation structures in UK workplaces and the subsequent impact this could have on British industrial relations.

1.2 Focus of the Research

1.2.1 Other Surveys and Research Projects

The introduction of the ICE Directive (2002/14/EC) into British employment law has led to a vigorous debate amongst academics and practitioners about its likely impact and outcomes. Hitherto, relatively limited empirical evidence has been available and at the time of empirical research carried out for this study the most recent surveys, such as: IRS (2005), CBI (2006) and LRD (2006), could provide only tentative and interim findings. Even the relatively recent WERS (2004) can only give hints about the likely prospects of the ICE Regulations, as the data were collected before the official transposition of the ICE Directive. The first most notable and comprehensive research on the matter was published by Hall et al. (2007) and it provisionally evaluates the responses of certain organisations. In particular, this project involved interviews and employee surveys for thirteen case-study organisations with at least 150 employees. A subsequent report was published for the second part of the project one year later (Hall et al., 2008), covering eight case-study organisations with at least 100 employees. Furthermore, a published report in December 2009 (Hall et al., 2009b) provides additional evidence with regard to four case-study organisations with the lowest threshold covered by the legislation, that of at least 50 employees.

1.2.2 Research Objectives and Questions

The purpose of the thesis is to widen the current limited scope of empirical findings in relation to the potential impact upon employee participation and industrial relations in Great Britain, brought about by the implementation of the ICE Directive (2002/14/EC). It must be noted that the research endeavour involves case-study

organisations, where the minimal threshold of employees is set at 150, as assigned for the first stage of the phased implementation of the legislation.

The empirical fieldwork was initiated with the conducting of a survey in January 2006. 500 organisations were included in the selected sample, which was acquired from the ACAS database. 74 organisations responded and provided details about: their direct and indirect employee voice mechanisms, the content of their current information and consultation arrangements, and their potential responses after the transposition of the ICE Directive. Moreover, ten organisations provided contact details with the purpose of possibly participating in the research as case-studies and finally, four of these were selected for in-depth research. One-to-one interviews (with managers, individual employees and trade union representatives), visits, non-participant observation of council meetings and collection of documentation (or other relevant data) for each of the case-study organisations took place, in order to make an in-depth evaluation of their information and consultation arrangements and to assess the changes or modifications in their employee representation structures as a result of the implementation of the ICE Directive. The first visit to one of the case-study organisations took place in March 2006, whereas the last one-to-one interview was conducted in December 2006 and contact with all of the organisations concerned was maintained until January 2008.

Overall, the main objectives of the research include:

- To review the debate and address the arguments, as set out in the available literature, regarding the transposition and implementation of the ICE Directive into the UK's employment law. Various dimensions are taken into consideration, such as: the impact of EU legislation on employee involvement and participation, the European social model and dimension, outline of the ICE Directive, strategies and opportunities for managers and employees in relation to the provisions of the legislation, debates amongst the social partners and an overview of the concept of legislatively prompted voluntarism⁶ as a potential framework for understanding future implementation of the ICE Regulations.

⁶ Coherent description regarding the concept of legislatively prompted voluntarism is provided in section 2.3.7.

- To assess and evaluate the initial responses of organisations as a result of the implementation of the ICE Regulations.
- To focus on the benefits and problems of implementing information and consultation arrangements through analysis of the four case-study organisations.
- To address critically the changes or modifications in information and consultation arrangements within the four selected case-study organisations.
- To pinpoint the: perceptions, approaches, strategies and opportunities for management, individual employees and trade union representatives, in relation to the statutory provisions of the ICE Regulations.
- To predict the likely: limitations, prospects, challenges, opportunities and potential outcomes from the implementation of the ICE Regulations.
- To assess the extent to which the ICE Regulations are able to challenge British voluntarism in relation to information and consultation arrangements.

Consequently, the main research questions that emerge are:

- In relation to changes and modifications as a result of the adoption of the ICE Regulations: what are the strategies and opportunities that have been adopted by the managers, individual employees and trade union representatives in the case-studies?
- To what extent can the information and consultation arrangements help the trade union and employee representatives to influence management prerogative and decision-making?
- Do the case-studies illustrate examples of true-consultation or pseudo-consultation?
- Does the concept of legislative prompted voluntarism offer the most appropriate framework for understanding the implementation and potential implications of the ICE Regulations?
- Can the ICE Regulations strengthen industrial democracy and employee voice mechanisms?
- Are the ICE Regulations contributing towards harmonisation in the context of British industrial relations and EU employment policy?

CHAPTER TWO

LITERATURE REVIEW

2.1 Outline of EU Legislation on Employee Involvement and Participation

2.1.1 European Social Model and Dimension

The development of EU employment regulation has strong roots in the past and as Gold (2009: p. 10) points out, its “*first stage*” can be identified as starting in 1958. Furthermore, the relatively recent dialogue about the “*genesis*” of the European Company Statute (ECS) model and all the initiatives taken for the establishment of basic rights of employee participation and representation, at board level, originated in 1959 (Gold and Schwimbersky, 2008: p. 48).

Since the enactment of the first Social Action Programme (1974), there has been widespread interest, within the European Community in establishing and developing “*legislative support for the participation of workers in decision-making*” (Ewing and Truter, 2005: p. 626). Other examples of analogous initiatives include the provisions of Collective Redundancies (1975) and Transfer of Undertakings (Acquired Rights) (1977) (cited in Shackleton, 1996: pp. 13-16). The aforementioned initiatives are included within the sphere of “*the social dimension*”, which is classified as one of the European dimensions together with the economic and political (Sisson, 2005: p. 49). “*The social dimension*” (Gold, 2009: p. 6) includes a number of parameters, such as: the rulings from the European Court of Justice (ECJ), the provisions of the Social Charter, and most importantly for this research, the implementation of directives or legal initiatives that cover a range of employee rights, including employee participation in the workplace. Issues that are relevant to employee representation and the wider context of industrial relations are included in the European social model, and therefore, the concepts of model and dimension are interrelated when it comes to issues regarding employee participation.

During the 1980s, the European Commission emphasised that “*strong and capable social partners*” in conjunction with “*social dialogue*” are the necessary prerequisites for the effective “*harmonisation of employment and working conditions*” (EC, 1988: pp. 88-89), which could be attained through the transposition and implementation of EU directives across the community (cited in Gold et al., 2007: pp. 8-10). As a result, in particular, the commission introduced significant initiatives related to employee involvement practices, and more specifically, about information and consultation rights.

For instance, the Vredeling proposals were viewed as an impetus for further growth and development of social dialogue at the European level (Weston and Martinez-Lucio, 1997: p. 764). These proposals took the form of a draft directive (1983), which is known also as the Vredeling Directive, named after the Dutch commissioner (Hendrikus – or Henk – Vredeling), who was responsible for social affairs at the EU level. It included, in particular, the employee rights of information-sharing and consultation, but mainly covered multinational organisations “*with complex structures*” (Gold, 2009: p.14). Other examples of similar initiatives taken by the European Commission include the: Fifth (Draft) Directive (1983) and the Health and Safety Framework Directive (1989) (cited in Shackleton, 1996: pp. 13-16).

Moreover, the European Council adopted the Social Charter (1989), but initially this was without the support of the UK government. The Maastricht Treaty (formally signed in February 1992) enhanced further “*the role of both social dialogue and qualified majority voting (QMV) through an agreement on social policy and social protocol*” with an initial opt-out for the UK (Gold, 2009: p. 5). Afterwards, the “*scope of EU social policy*” was significantly broadened through the Treaty of the EU (1993) and “*its incorporation into*” the Treaty of Amsterdam, through Article 136 in 1997 (Gennard and Judge, 2002; cited in Marchington and Wilkinson, 2005a: p. 51). In particular, Article 20 of the Social Charter included the statutory right of workers for information-sharing and consultation, and in general terms the notion of employee participation. Moreover, Sisson (2005: p. 49) citing Rhodes (1997: pp. 69-70) points out the importance of the social dimension, by highlighting the fact that some of the key areas of EU social policy include “*... regulatory policies for the labour market embracing workers’ rights, the promotion of social dialogue and*

collective bargaining...” (quoted in Sisson, 2005: p. 49). Furthermore, Marginson and Sisson (2006: p. 37) describe this dimension as “*social policy competence*” that in practical terms involves the context of the “*industrial relations system*” and issues relevant to the “*development of human resources*” at the EU level.

All the aforementioned developments do not exist in a vacuum, but rather they have emerged within the wider context of the European social model or social Europe that is defined by the European Trade Union Confederation (ETUC)⁷ as:

“...a vision of society that combines sustainable economic growth with ever-improving living and working conditions. This implies full employment, good quality jobs, equal opportunities, social protection for all, social inclusion, and involving citizens in the decisions that affect them. In the ETUC’s view, social dialogue, collective bargaining and workers’ protection are crucial factors in promoting innovation, productivity and competitiveness...”

Similarly, the main parameters and principles of the European social model involve:

“... the importance of collective bargaining and institutionalised dialogue in the workplace; a role for the state as the guarantor of social cohesion...” (cited in Milner, 2005: p. 108).

Furthermore, Milner (2005: p. 107) refers to the definition by Grahl and Teague (1997: p. 405), in which the European social model is considered to be “*...a specific combination of strongly institutionalised and politicised forms of industrial relations...*”. In addition, according to Article 136 of the Amsterdam Treaty (1997), some of the aims of European social policy include: “*...the promotion of employment...improved living and working conditions...dialogue between management and labour...*” (cited in Sisson, 2005: p. 49). Moreover, also along these lines the European social model is identified as promoting the following contextual characteristics:

⁷ Further details are provided on the website of the European Trade Union Confederation (<http://www.etuc.org/a/111>).

“... trade unions were accepted as legitimate social partners; the collective regulation of employment relations strongly influenced individual employment contracts; and a general framework for employee representatives was supported by legislation or agreements between federations of trade unions and employers...” (Tailby and Winchester, 2005: p. 431).

In general, the distinctive route of the UK in comparison with the European social model, especially during the 1990s, has been emphasised by Milner (2005) as follows:

“In the 1990s, discussion of the European social model took place in the context of fierce debates about employment policy, particularly the merits of US- and UK-style labour market deregulation, given these countries’ better job creation record...” (p. 108).

Furthermore, Dundon and Wilkinson (2009: p. 407) suggest that the European Commission strongly favours the development of an *“indirect route to employee participation”*. In general, it is claimed there has been notable *“progress in relation to EU-level social dialogue”* during the last ten years (Casey and Gold, 2000: p. 118). However, the enforceability and relative influence of EU level agreements have proved to be problematic over that period as the *“legal regimes and compliance systems vary widely across the member states”* (Casey and Gold, 2000: p. 119). The UK, in particular, along with the Republic of Ireland, provide good examples of non-compliance, with the context of employment relations being characterised as a *“voluntary, decentralised, [and] conflict-based system”* (Williams, 1988: p. v) and the labour markets in both countries being less regulated than in other EU countries such as: Germany, Sweden and Austria. For instance, the UK and Ireland were against the introduction of the ECS model, because it was considered to be *“inappropriate to their own domestic conditions”* (Goulding, 2004; cited in Gold and Schwimbersky, 2008: p. 51) and similar strong scepticism was expressed in relation to the ICE Directive (Cressey, 2009; Carley and Hall, 2008). Moreover, the transposition of such EU directives on employee participation initiated debates amongst the social partners in these countries. In particular, Milner (2001) points out that the *“UK labour market is lightly regulated”* (p. 331) and Sisson (2005: p. 46) contends that *“social*

partnership arrangements” are much weaker in the UK compared with other EU countries.

2.1.2 The Influence of EU Directives and Regulations on British Industrial Relations

Overall, the context of industrial relations in Britain is now characterised as strongly decentralised, with low levels of collective bargaining coverage (Lorber 2006) and highly evident “*adversarial*” features (Beaumont, 1991: p. 232; Edwards, 1992: p. 361; cited in Provis, 1996: p. 475). Furthermore, the different context of employment relations in Great Britain compared to other European countries is attributed to the “*deeply contrasting attitudes towards both European integration and social policy*” (Gold, 1992: p. 102). In this regard, there was strong opposition by the UK government against the initiatives taken by the EC, especially against the directives of Vredeling and the Fifth Draft on Public Companies. Consequently, the context of the British industrial relations system was not significantly changed as a result of these legislative actions. This led many academics to highlight the opposition of the UK government to the aforementioned EU legislative proposals, especially in relation to European social policy issues (as assigned through the Maastricht Treaty in February 1992). In addition, they point out the variant features of British industrial relations in comparison with other countries or social partners in the European Union. For instance, it is argued that:

“...the UK opposes what it sees as the imposition of further regulation of labour markets governing areas like working time, maternity rights and participation. Its partners, however, reflecting more regulatory traditions, could not envisage the creation of a single European market without a ‘social dimension’ to protect employees exposed to increased competitive pressures... the UK position, which involves a series of legal and political uncertainties, does not seem to set a convincing precedent...”
(Gold, 1992: p. 102).

In addition, a published report in 1996 refers to the official position of the UK government and its opposition to the EU directives on employee participation, which was described as showing signs of “*the pre ‘opt-out’ fight against the European Works Council Directive*” (Wild, 1996: pp. 15-16) that would subsequently ensue.

That is, this report illustrates the strong and rigid opposition of the UK government against the establishment of statutory provisions and legislative frameworks. In particular, it states:

“Successful employee involvement in Britain is best developed on the basis of voluntary agreement. It depends on a spirit of cooperation, not on legal requirements. You cannot force people by law to cooperate with one another. It has got to be suited to the specific circumstances of the particular firm and its employees. There is no master plan which meets every firm’s needs. That is why the [UK] government has consistently opposed pressure for legislation which would impose rigid requirements in place of flexibility and diversity” (Wild, 1996: p. 15; originally published in HMSO, 1989⁸).

From the beginning of 1970s until the end of 1990s, within the context of the European Community, substantial legal requirements about informing and consulting employees were transposed into EU countries’ jurisdiction. However, they were developed *“in a somewhat piecemeal fashion”* (DTI 2002, p. 24) and strictly constrained to specific areas, such as: collective redundancies, transfer of undertakings, health and safety, and occupational pensions (DTI 2002; Hall, 2005b). More specifically, Marginson and Sisson (2006) suggest that:

“...in Ireland and the UK, workplace representatives only began to gain legal rights to information and consultation with accession to the EU and the passage of the directives on collective redundancies (1975), transfers of undertakings (1977), working time (1993)...” (p. 48).

In September 1994, all member states of the EU, with the exception of the UK government that demonstrated its strong opposition, agreed to follow the proposition from the European Commission concerning:

“...the objectives of a single market to provide for the disclosure of information and for consultation of workers on key decisions and issues of a European-wide nature which significantly affect workers’ interests... the means of achieving this is best done

⁸ HMSO (1989) *People and Companies: Employee Involvement in Britain*, UK Government Publication.

through flexible structures adapted to the needs of the individual companies..."
(O'Kelly, 1995: p. 85).

The statutory enforcement of these employee rights through the aforementioned EU directives resulted in the establishment of the Social Protocol between eleven states under Maastricht agreement, with the UK exercising its opt-out from the process. In this regard, Sako (1998) argues that the continued absence of a consistent legislative framework for employee representation in the UK acted against the pluralist establishment of employee participation practices, because a strong reliance upon "*employers' goodwill*" is still evident (p. 12). Moreover, many of the measures included in the "*Social Action Programme*" (such as: the EU directives on employment issues) were not adopted and implemented by the UK until 1997 (cited in Gold, 2009: p. 19). This led to the situation that "*the UK was increasingly 'out of step' with the rest of Europe with respect to employee rights...*" (Blyton and Turnbull, 2004: p. 194). Furthermore, during the 1990s, Gold (1993) described the context of British industrial relations as a system where "*...the role of the state is limited and there is little legislation conferring basic rights. Abstention from regulation of labour markets is the tradition...*" (p. 17).

In sum, at the time the UK was the only EU member state that was not covered by the aforementioned directives and legislative proposals, as assigned in the "*Social Chapter [of] Maastricht Intergovernmental Conference*" (Wild, 1996: p. 47), because it initially "*opted-out*" from the provisions of the Maastricht agreement (Gold and Hall, 1994: p. 177; cited in Gold et al., 2000: p. 275). In other words, the different approach of the UK government signalled a notable political divergence in comparison with other countries, in particular Germany and the Nordic countries, who supported "*greater regulation of employment and social affairs at EU level*" (Casey and Gold, 2000: p. 111). This divergence led to the Maastricht Social Policy Protocol being signed by all EU member states, with the exception of the UK and thus resulted in a "*two-speed social Europe*" (Gold, 2009: p. 19). Nonetheless, this protocol did stimulate some activity by "*UK-based multinationals*" (Hall, 1992: p. 547).

2.1.3 The Signing of the Social Chapter by the UK Government (1997)

In the beginning of 1990s, the Conservative government opposed the imposition of employee statutory rights on workers' participation and instead supported the development of "*best suited*" arrangements for companies (Ackers et al., 1992: p. 272). However, an important ruling by the European Court of Justice (ECJ) (in 1994) against the UK necessitated "*...the obligation of employers to consult with employee representatives... in organisations with or without recognised trade unions...*" (Tailby and Winchester, 2005: p. 443). More specifically, this referred to cases where the consultation process involved specific business-issues, such as: collective redundancies and transfer of undertakings, and the outcome of this ruling was viewed as one of the first steps to "*harmonise the UK legislative framework with EU requirements on employment policy and basic employee rights*" (Casey and Gold, 2000: p. 104).

In addition, in 1997 the Labour government signed the Social Chapter for the UK that involves a wide floor of rights and that includes amongst other issues "*... the protection of employees' rights in the event of a transfer of an undertaking...the introduction of information and consultation machinery for a variety of situations... participation for workers, and health and safety at the workplace...*" (Marchington and Wilkinson, 2005a: pp. 51-53). This formally came into force in May 1999 when the Amsterdam treaty was signed and this officially signalled the end of the UK's opt-out from the Social Chapter. After the UK's signing up to the Social Chapter, employees were given the statutory right to elect representatives and be consulted for redundancies and transfer of undertakings, in both union and non-union workplaces. That is, this development "*... ended the UK opt-out from the 'Social Protocol' ... thus limiting its capacity to resist new EU-initiated employment rights...*" (Tailby and Winchester, 2005: p. 433).

The decision by the UK government to "*opt-into the agreement on social policy*" (Marchington and Wilkinson, 2005a: p. 51) subsequently led to the adoption of EU directives on employee participation and the establishment of a "*works council-style system in UK domestic organisations*" (Blyton and Turnbull, 2004: p. 264). It is also argued that these developments have been stimulating the Europeanisation of employment relations in Great Britain and the establishment of "*a universal right to*

representation” with further “*opportunities for unions*” (Marchington and Wilkinson, 2005a: p. 292).

For instance, in relation to information and consultation on health and safety, acquired rights and collective redundancies issues, Wild (1996) argues that:

“the UK government, in particular, has had to amend its original implanting provisions for both collective redundancies and transfer of undertakings to ensure compliance with these directives following successful challenges at the European Court of Justice... The UK government approach of guaranteeing information and consultation on an individual basis in the absence of trade union recognition was found to be unsatisfactory. With effect from 1 March 1996, companies have had to ensure consultation through elected employee representatives if this is so desired by the employees affected by a decision” (p. 46).

More specifically, Cressey (2009) argues that the Labour government was strongly hostile towards “*any proposal that would cut across existing practices and harm the traditional format of employee relations in the UK*” (p. 153). However, when the UK’s opposition was finally undermined the government was forced to launch the introduction of “*a minimum level*” of “*specific rights*” for employee participation, including the establishment of a general framework for information and consultation (Blyton and Turnbull, 2004: p. 194). Nonetheless, these authors argue that these developments can be hardly described as a “*fundamental shift*”, because the adopted approach regarding employment relations, by the UK governments, did not entail a significant “*legislative reform*” (ibid).

Nevertheless, as a result of the rulings of the ECJ and the signing of Social Chapter, the UK Labour government was forced to be more adjacent in relation to EU social policy. That is, this brought significant changes to the area of employment relations, which were stimulated by the legislative requirements of the EU directives contained within the chapter. Moreover, this had the purpose of providing a comprehensive statutory framework for employee participation through more sustainable works councils. In sum, it is important to note that even though the Labour government strenuously resisted the ICE Directive (EWCB, 2002), the two key ECJ cases

(C382/92 and C383/92) provided the basis for this legislation to have to be eventually adopted by the UK. In particular, according to Hall (2005b: p. 105):

“...the ECJ ruled in 1994 that the UK was in breach of the collective redundancies and transfer of undertakings directives by failing to provide for the designation of employee representatives for the purposes of the consultation required by the directives where an employer did not recognise unions⁹. Thus, for the purposes of implementing EU consultation requirements, the ECJ overturned UK law’s traditional reliance on recognised trade unions as the ‘single channel’ of employee representation. The UK therefore had to introduce supplementary statutory employee representation mechanisms to apply the directives in the absence of union recognition...”

The aforementioned changes have necessarily resulted in UK workplaces being more sympathetic and flexible towards employee representation (Ackers et al., 2005; Davies and Kilpatrick, 2004). Moreover, the election of the Labour government and the signing of the Social Chapter provided a strong impetus for legislative changes and alterations in accordance with the Social Action Programme - as agreed in the Maastricht Treaty (cited in Cressey, 1998: p. 78). Furthermore, the Fairness at Work programme (DTI, 1998b) provided the impetus for the long-term promotion of partnership amongst all social actors (Lourie, 1998; Undy, 1999; Wood and Godard, 1999; cited in Bacon and Storey, 2000: p. 407). More specifically, these alterations included the: Statutory Consultation Requirements for Redundancies and Transfer of Undertakings¹⁰, Government’s Statutory Trade Union Recognition (under the Employment Relations Act 1999)¹¹, Directive on European Works Councils (EWCs) (1999)¹², and more recently, the implementation of the Information and Consultation of Employees (ICE) Regulations (2005)¹³.

⁹ Davies, P. (1994) “A Challenge to Single Channel?”, *Cases: C-382/92 and C-383/93, Commission v United Kingdom, Industrial Law Journal*, 23 (3), pp. 272-285.

¹⁰ Department of Trade and Industry (1996), *Redundancy Consultation and Notification*, PL 833 (rev 3);

Department of Trade and Industry (1998a), *Employees’ Information and Consultation Rights on Transfers of Undertakings and Collective Redundancies*, Public Consultation Document URN 97/988.

¹¹ The statutory trade union recognition provisions of the Employment Relations Act 1999 (UK9903189F) were brought into effect by the Government on 6 June 2000.

¹² The Council Directive (94/45/EC – 22 September 1994) was adopted under the Social Chapter of the Maastricht Treaty, and was required to be implemented by the UK by 15 December 1999 (‘Implementation in the UK of the European Works Council Directive – A Consultative Document, July 1999, URN 99/926).

¹³ EU Directive: 2002/14/EC.

2.1.4 Debate and Implications about EU Directives and Regulations

The ICE Regulations involved the transposition of the European Directive (i.e. the ICE Directive) on the Information and Consultation of Employees into UK law in 2005 (Houses of Parliament, 2004; cited in Storey, 2005: p. 2) and they are considered to be one of “*the few hard law initiatives in EU employment policy*” to be implemented since 1997 (Gold, 2009: p. 23). In particular, these developments are perceived by Sisson (2005) as significant parameters and drivers that could potentially bring about the Europeanisation of UK employment relations. More specifically, he envisages radical changes within the context of industrial relations in the UK:

“...the much-lauded ‘voluntarism’ of UK employment relations is all but dead: personnel management and individual employment rights have become inextricably tied together, bringing about an increasing tendency to a legal dependency culture. European integration has also been a major factor in accelerating the reshaping of the UK’s economy and, consequently, its structure of employment...” (Sisson, 2005: p. 46).

On the whole, there is vigorous scepticism about the effectiveness of the aforementioned EU directives in bringing a potential convergence between the “*divergent industrial relations systems*” (Baldry, 1994: p. 99; Crouch 1993; cited in Weston and Martinez-Lucio, 1997: p. 765), which are described as three different or divergent traditions, denoted as: “*Romano-Germanic, Anglo-Irish and Nordic systems*” (Jones and Cressey, 1995: p. 12). In a similar way, Marginson and Sisson (2006: pp. 42-48) take into consideration the analyses of “*social protection dimension and welfare regime*” within the sphere of the European social model (Esping-Andersen, 1990; Scharpf, 2000) and also the divergent industrial relations systems between EU countries¹⁴ (Ebbinghaus, 1999; Supiot 2000), in order to develop a model of four main clusters across the dimensions of “*workplace representation and regulatory basis*” (Rogers and Streeck, 1995; Regalia, 1995; Traxler et al., 2001; cited in Marginson and Sisson, 2006: p. 46). In this regard, in line with the aforementioned differentiation made by Jones and Cressey (1995), these clusters are subsequently distinguished as: “*Rhineland, Latin, Nordic and Anglo-Irish countries*” (Marginson and Sisson, 2006: p. 42). Within the aforementioned frameworks, Jones

¹⁴ In their analysis, Marginson and Sisson (2006: pp. 42-48) use the EU-15 and Norway in order to develop the model of four main clusters of countries.

and Cressey (1995) provide a very comprehensive description of the UK's industrial relations context:

“...in the Anglo-Irish system a written constitution is absent and legislation plays a more limited role in the conduct of labour law. The tradition is one of non-intervention by the state and legal system in the functioning of the labour market and industrial relations. Significantly, collective agreements in the Anglo-Irish system are not legally binding on the parties involved...” (p. 12).

In similar vein, Bach (2005: p. 31) gives a short description of British employment regulation that shows the contrast with many other EU countries:

“... for most of the twentieth century the UK system of employment regulation has been characterised as ‘voluntarist’ which ensured that employment regulation was conducted primarily through collective bargaining between employers and unions and the state did not intervene to provide a legal framework of individual and collective rights to the same degree as in most other European Union (EU) countries...”.

Moreover, Keller (2002) points out the lack of statutory rights in the Anglo-Irish systems and criticises the strong opposition of the two governments to any intervention by EU legislation into their domestic employment laws. Nevertheless, he goes on to contend that the EU directives can provide a good opportunity for bringing significant changes in the area of industrial relations:

“... countries with fairly weak or no statutory rights at all, especially the UK and Ireland, opposed any kind of outside, ‘foreign’ intervention that would in any case ‘import’ some kind of binding regulation into their rather voluntaristic systems, install unknown and therefore dangerous precedents and, thus, lead to gradual, but in the long run considerable changes within their national industrial relations...” (Keller, 2002: p. 426).

The development of the EU directives and legislative initiatives, which have been implemented in the UK, have led Gold (1998) to suggest that within the context of the European industrial relations system:

“...we might expect over time that the various obstacles to more intensive use of social dialogue may be gradually overcome, especially given a more sympathetic attitude adopted by the UK government...” (p. 130).

For instance, there is a great emphasis on the fact that social dialogue should be prioritised in line with the common practices in other EU countries:

“... the general approach to social dialogue at a European level contains many useful lessons for Britain. It demonstrates that an IR system can be rooted in a search for compromise. It means institutions that are designed to generate agreement rather than resolve conflict. This requires a cultural change on the part of British employers...”
(Introduction by Taylor, 1994: p. xvi; cited in Ackers and Payne, 1998: p. 536).

On the other hand, serious scepticism has been expressed about the effectiveness of specific pieces of legislation, such as the Statutory Union Recognition¹⁵, mainly because of their “*individualistic focus*” (Perrett, 2007: p. 619). Moreover, the CBI expressed its serious reservations to the Labour leadership and argued that “*...compulsory recognition is wholly inconsistent with the UK’s voluntary system of employee relations and cannot be a basis for effective workplace relationships...*”¹⁶. From a different perspective, previous legislation has been criticised by some authors for being ambiguous about the real and pragmatic provision of collective rights (Smith and Morton, 2001), whereas others have highlighted how employer resistance has limited the effectiveness of such legislative enactments (Gall, 2004).

Furthermore, as noted in the previous section, the UK government initially expressed serious reservations about the two latter EU directives (94/45/EC and 2002/14/EC) on the consultation of employees, and as a consequence their transposition into UK employment law was delayed. In this regard, according to Ramsey (1997), the two latter developments can be considered as “*a direct descendant of the Vredeling Directive*” (p. 316). More specifically, Cressey (1998) envisaged that the EWC Directive would provide the opportunity and momentum for establishing coherent

¹⁵ Perrett (2007) provides one of the most recent comprehensive assessments regarding the Statutory Trade Union Recognition as it was embodied through the 1999 Employment Relations Act (ERA).

¹⁶ Further details are provided by: *Financial Times*, 18th March 1997, “Labour Union Plan Raises Concern” (also cited in Lourie, 1998: p. 35).

“consultative provision” (p. 78) for the majority of organisations covered by the legislation at the EU level. Moreover, it was believed that this EU Directive would actually create strong *“activity in both management and union circles”* (Weston and Martinez-Lucio, 1997: pp. 764-765).

In this regard, Cressey (1998: p. 67) cites a criticism made by the TUC in relation to the initial opposition of British government towards the implementation of EWC Directive:

“...British business sees the value of works councils, and the enthusiasm with which many companies have gone ahead and set them up shows just how irrelevant is the UK’s opposition – based purely on political dogma” (TUC press release, January 1997).

On the other hand, more recently serious reservations have been expressed about the actual benefits of the EWC Directive, such as:

“...the architects of the EWC Directive were perhaps ‘naive’ in their vision that workers’ and employers’ representatives would happily come together in a ‘spirit of co-operation’...” (Trimming, 2007: p. 259).

The latest transposition of an EU Directive on employee consultation, that is the ICE Directive, is described as *“a major development in UK employment law”*, because it is the first that actually establishes a general and consistent statutory-framework for consultation rights (Hall, 2006: p. 456) and can potentially *“pave the way for new arrangements”* (Marchington et al., 2004: p. 63). Before the implementation of this EU Directive the UK had no such statutory framework containing general rights to representation, as a consequence its institutionalisation was mainly considered as being voluntarist. Single voice-channels of trade union representation are evident in workplaces across the UK, but works councils are still considered to be relatively *“rare”* (Marginson and Sisson, 2006: p. 47). In general, Carley and Hall (2008) identify a cluster of countries that include: Bulgaria, the Republic of Cyprus, Malta, Poland, the Republic of Ireland, Romania and the UK, which did not have a general statutory framework for information-sharing and consultation of employees prior to

the implementation of the ICE Directive. For this cluster of countries, they have suggested that:

“...in legislative terms, the impact of the [ICE] Directive has been greatest in countries with no works council tradition, owing to a combination of elements such as: a history of largely voluntarist industrial relations; the primacy of trade unions as a representation channel; and the relatively recent adaptation of industrial relations systems to EU ‘norms’...” (Carley and Hall, 2008: p. 30).

In relation to the transposition of the ICE Directive into British employment law, early on Bercusson (2002) provided a very thorough and comprehensive interim analysis about its potential outcomes. He suggested that such EU directives should not be seen as *“isolated cases”* but rather as a consistent *“...part of a general evolution of policy in the EU towards labour in the enterprise...”* (Bercusson, 1996: p. 221; cited in Bercusson, 2002: pp. 211-212). However, this author has also argued that the content of the ICE Directive was seriously *“weakened”* by the Labour government (Bercusson, 2002: p. 209).

Furthermore, Lorber (2006), taking into consideration the wider contextual framework and institutionalisation of the British industrial relations system, highlights that:

“...the new information and consultation arrangements will be grafted onto a system of collective relations historically and traditionally based on collective bargaining, industrial action and a flavour of conflict between the two main protagonists (i.e. employer and trade unions)...” (pp. 252-253).

The necessity of establishing this legislative framework is clearly illustrated in the Official Journal of the European Communities:

“...the existence of legal frameworks at national and Community level intended to ensure that employees are involved in the affairs of the undertaking employing them...” (Directive 2002/14/EC – L80/29).

Overall, from an optimistic point of view, it is argued that:

“... the [ICE] Directive represents a substantial step towards the establishment of a pan-European standard for employee information and consultation as a key element of the European social model...” (Carley and Hall, 2008: p. 30).

Even though, there has been a parallel decline in collective voice, and consequently an increase in workplaces with no voice arrangements, academics have noted that this trend has been “*counteracted*” by the EU directives (Wood and Fenton-O’Creevy, 2005). In this regard, these “*legislative developments*” are considered to contribute to that EU policy which aims to enhance further the role of “*social partners*” (Brewster et al., 2007b: p. 1252). In addition, it is argued that the transposition of such EU directives can enable “*British employee participation practices*” to come closer to those found in other “*European continental systems*” (Pendleton and Deakin, 2007: p. 340), and simultaneously the sustainability of these practices can be ensured through the implementation of the employee statutory rights on employee participation (cited in Sako, 1998: p. 12).

It is also suggested that the aforementioned legislative proposals have challenged the “*traditional non-regulatory policy*”, in relation to the broader context of British industrial relations and the forms of collective representation in UK workplaces (Hall and Terry, 2004: pp. 208-209). However, there is still much scepticism about the actual impact of these proposals, as British companies tend to have “*weaker*” or even “*symbolic forms*” of representation, in which employees have limited influence in relation to collective rights, compared to the “*...active model favoured by the European trade union movement...*” (Marginson et al., 1998: p. 74; cited in Wills, 1999: p. 22).

2.2 Meanings and Definitions of Information-Sharing and Consultation of Employees

Within the context of the Vredeling proposal, Blanpain (1983) provided the following definitions:

“...disclosure of information to employees means that the employer provides information about which explanation may be sought and questions can be raised; information which will eventually be discussed...” (p. 21),

“...consultation refers to subjects within the power of managerial prerogative...[it] means that advice is given to the employer, leaving the decision-making power of the employer intact...the employer retains the power to make decisions, after having listened to the views of the employee representatives. This advice does not require either unanimity or a majority vote and can take place either at the request of the employer or the request of labour...” (p. 22).

Similarly, according to article 2 of the EU Directive (2002/14/EC):

“...information means transmission by the employer to the employees’ representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it. Consultation means the exchange of views and establishment of dialogue between the employees’ representatives and the employer, with a view to reaching agreement...” (cited in Dundon and Wilkinson, 2009: p. 413).

Torrington et al. (2005) have highlighted the importance of consultation arguing that:

“...irrespective of legal obligations, consultation is generally regarded as a hallmark of good management. An employer who fails to consult properly, particularly at times of significant change, is likely to be perceived as being unduly autocratic...” (p. 482).

There is a variety of meanings that are assigned to information and consultation and in addition to the terms: employee voice, involvement and participation practices. For instance, Croucher (2008: pp. 368-370) views the concept of employee voice through various forms that include: *“open door policies, suggestion schemes, employee attitude surveys, employee forums, work/project team and general meetings”*. In addition, Marchington et al. (2001) denote a diversity of meanings for employee voice/involvement practices at the organisational level. Similarly, according to Dundon et al. (2004: pp. 1150-1153), employee voice can be briefly designated as: *“...(a) a form of contribution to decision-making, (b) an articulation of individual dissatisfaction/satisfaction, (c) a demonstration of collective organisation...”* (cited in Bratton, 2007b: p. 442).

Based on the type of issues included in the practices of involvement and also the fact that its nature can *“vary from formal bargaining through to management control”*,

Cressey et al. (1985: pp. 7-9) constructed the “*Continuum of Employee Involvement*” (a brief overview is provided in figure 2.1). According to this continuum, at the right-hand side there is strong “*management control*” with a minimal level of employee involvement and high emphasis placed on “*business related issues*”. Further along the continuum employees may exert greater influence over decision-making through information-sharing and consultation, with the issues included in the agenda tending to be more “*job-*” rather than “*business-related*” (ibid). Finally, at the left-hand side employees may attain strong control over management decision-making, through collective representation mechanisms of “*formal bargaining*” (ibid).

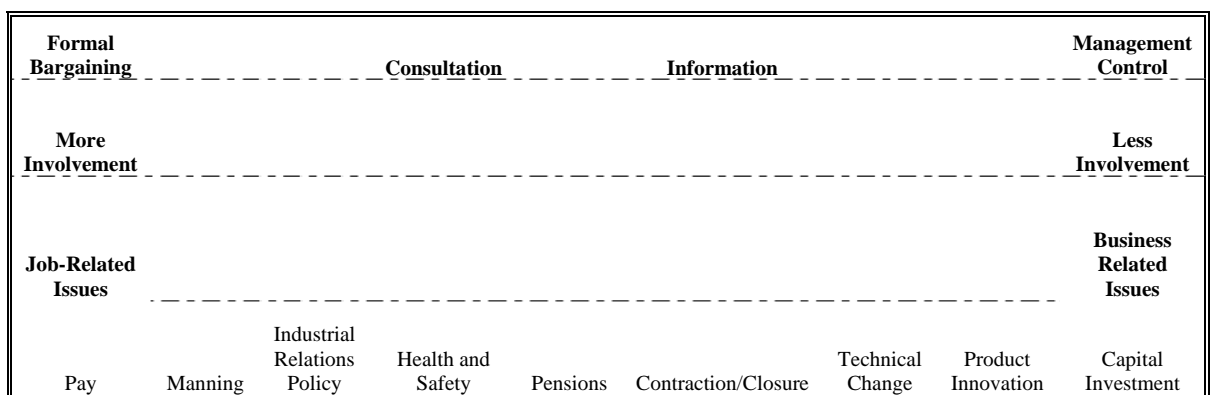


Figure 2.1: The Continuum of Employee Involvement. Adapted from Cressey et al. (1985: p. 8).

Similarly, Blyton and Turnbull (2004: p. 255) argue that employee participation structures and activities¹⁷ can be denoted as: “*industrial democracy, participation, involvement, empowerment and...partnership*”. Furthermore, with the use of the model in figure 2.2 they illustrate the way that different information and consultation arrangements can be unpicked at the organisational level. More specifically, at the left-hand side of the schema employees receive information from management without active involvement in any decision-making, further along the continuum employee representatives may exert advisory power, based on joint consultation and at the right-hand end they may have “*full control over decisions*” (ibid: p. 256).

¹⁷ Various definitions about this notion can be found in the available literature. For instance, employee participation is defined as “...state initiatives which promote the collective rights of employees to be represented in organisational decision-making...”, while employee involvement is being seen as an “...opportunity to influence and where appropriate take part in the decision making...” (Hyman and Mason, 1995: p. 21).

Using the terminology adapted by Ramsey (1980), “*pseudo-participation*” represents the left-hand side of the continuum in figure 2.2, whereas “*true-participation*” is more likely to be found at the other end (cited in Blyton and Turnbull, 2004: p. 255). Within this perspective, “*pseudo-consultation*” is described as the situation in which employees perceive that “*management is not genuinely interested in hearing their views or in taking them on board*”, and under these circumstances consultation arrangements are used as a process of “*legitimising*” management decision-making (Torrington et al., 2005: p. 483), thus giving the dubious impression to the employees that they are actually being consulted. Similarly, pseudo-consultation has been described as follows:

“...downward communication within the JCC, where management informs employee representatives of decisions already taken. Employees and employee representatives are not empowered to influence management decisions. Pseudo consultation or ‘information giving’ is practised more commonly in organisations which are union-free or where unions are particularly weak and as a method of industrial relations, it merely seeks to maintain management’s right to manage, neither to challenge it nor to legitimise managerial authority...” (Farnham and Pimlott, 1995: p. 52; cited in Rose, 2008: p. 346).

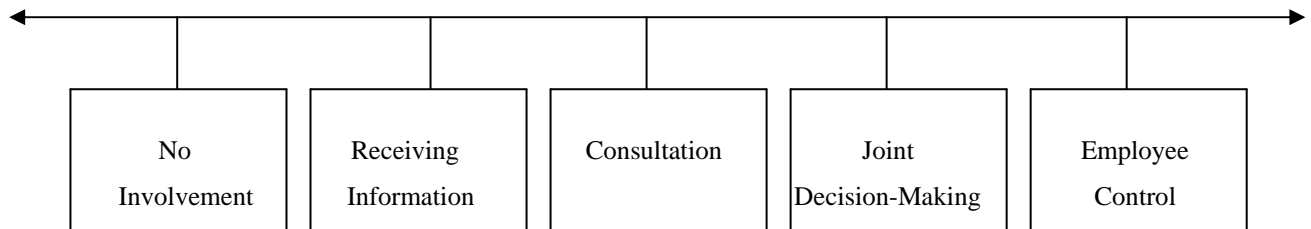


Figure 2.2: The Continuum of Employee Involvement. Adapted from Blyton and Turnbull (2004: p. 255).

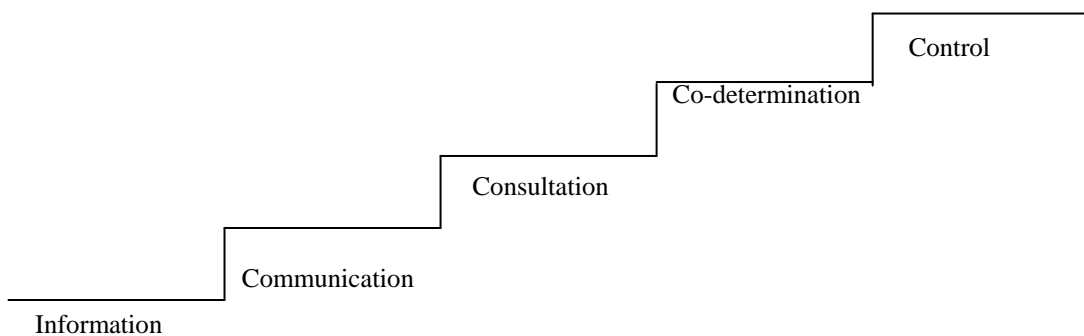


Figure 2.3: The Escalator of Participation. Adapted from Marchington and Wilkinson (2005b: p. 401).

The different meanings of terms that are connected with the employee involvement practices become more complicated, when both union and non-union settings are considered (Dundon et al., 2006: p. 493). In this regard, Boxall and Purcell (2003) consider employee voice as a very important mechanism that can enable employees or their representatives to have a stronger influence over management decision-making. In addition, the “*breadth*” and “*depth*” of employee voice mechanisms can be defined in accordance with the extent to which they can potentially be implemented within the organisations (Marchington, 2005: pp. 30-33; cited in Dundon and Gollan 2007: pp. 1184-85).

Furthermore, Marchington and Wilkinson (2005b: pp. 400-402) assign the dynamics of employee participation and involvement arrangements according to their “*degree, level, form and range*” (a brief overview is provided in table 2.1). They also display through their “*escalator of participation*” (ibid: p. 401) the extent to which the influence of employees can be exerted over management decision-making, starting with information-sharing and ending with employee control (figure 2.3 illustrates the scaling of these forms of participation). Taking into consideration the aforementioned escalator¹⁸, Marchington (2005) further re-conceptualises the notion of employee participation and argues that:

“...managers retain ultimate control over decisions until the final two categories [i.e. information, two-way communication and consultation]... despite being accorded the right to be consulted about an issue, workers’ views can be ignored if management sees fit...” (p. 27).

That is, the “*escalator of participation*” (Marchington and Wilkinson, 2005b: p. 401; cited in Wilkinson et al., 2010: p. 11) exposes the limitations of the ICE Directive, in that the legislative provisions fail to provide employees any of the statutory rights of negotiation, co-determination and employee control. In addition, Wild (1996: p. 24) argues that co-determination relies on the principle that “*...a decision needs the agreement of both...*” social partners and this is not provided by the ICE Directive. From a slightly different perspective, Torrington et al. (2005) describe the

¹⁸ It is also described as “*the depth [or] framework of employee participation*” (Marchington and Wilkinson, 2005b; cited in Dundon and Wilkinson, 2009: pp. 408-409).

consultative process as the first stage in which the opinion of employees is considered before management decision-making is taken, but they also accept that even though the collective consultation involves “...*formally talking to employee representatives with a view to reaching agreement. There is no obligation on employers to negotiate or to conclude any formal deal, but an attempt must be made in good faith...*” (ibid: p. 479).

According to Coupar and Stevens (2005: p. 52), the notion of consultation is still “*something of a mystery, located somewhere between two-way communication and joint decision-making*” and they also add that sometimes the boundaries between consultation and negotiation can be hardly distinguished. Likewise, it is also suggested that “...*the distinction between negotiations and consultation was always somewhat unreal...*” (Bulletin of the European Communities, 1975: p. 96).

The Degree means the extent to which employees can influence management decision-making (e.g. whether they are simply informed of changes, consulted or actually make decisions).

The Level is about where in the organisational hierarchy employee participation and involvement takes place; such as: task, departmental, establishment or corporate level.

The Range involves the subject matter included in the employee participation and involvement arrangements, which can refer to just relatively trivial topics or to more strategic issues.

The Form is about the type of employee participation and involvement arrangements, i.e. they can be either direct (individualised) and/or indirect (collective), where employees are involved through their elected representatives.

Table 2.1: The Dynamics of Employee Participation Practices in Relation to their: Degree, Level, Range and Form. Adapted from Marchington and Wilkinson (2005b: p. 400). Also cited in Dundon et al. (2003: pp. 20-21).

Nonetheless, through an analysis of the Vredeling proposal, Blanpain (1983) makes a clear distinction between the two terms and pinpoints the difference on the extent to which management prerogative can be challenged. In particular, it is asserted that the negotiation process depends primarily on “*the power of joint regulation by management and trade unions*” (IELL ‘Great-Britain’, 1980: par. 42; cited in

Blanpain, 1983: p. 22). Furthermore, Blanpain (1983: p. 23) refers to the definition of negotiation process as provided by Marsh (1979: p. 208), which is:

“...a method of joint decision-making involving bargaining between representatives of workers and representatives of employers, with the object of establishing mutually acceptable terms and conditions of employment...”.

Another perspective about the dimensions of employee involvement practices is provided by Bratton (2007b), who suggests that they fall along the following continuum: *“...communication of information, financial involvement, upward problem-solving, quality circles, extended consultation, cross-functional teams, self-directed teams, collective bargaining, worker directors, and works councils...”* (pp. 452-453). Furthermore, the most recent empirical evidence indicates and emphasises the strong differences between consultation and negotiation (Hall et al., 2009; Wilkinson et al., 2007; Beaumont and Hunter, 2007). More specifically, collective negotiation arrangements with regard to important employment issues, such as pay and conditions, are strictly relied upon in trade union recognition agreements, whilst although consultation may be broader as a process in comparison with negotiation, as it can often cover all the employees in the workplace, it usually provides less influence over decision-making and consequently managerial prerogative is hardly ever seriously challenged. In addition, consultation has historically been proved to be *“a weaker form of collective interaction”* compared to negotiation (Terry, 2003a: p. 493).

Within the context of the EU directives on employee participation, Gollan and Wilkinson (2007b: p. 1146) identify information as the *“provision of data on workplace issues or more strategic matters”*. However, they also emphasise the fact that consultation usually does not involve issues related to collective bargaining and consequently, *“responsibility for decision-making ultimately remains with management”* (ibid). Similarly, Dundon et al. (2006: p. 493) consider information-sharing as a *“central component”* in employee involvement practices and emphasise its constraints and limitations. In this respect, they regard consultation as a more *“extensive”* practice compared to information-sharing, but they go on to stress strongly the difference between the consultation process and collective bargaining

(ibid). Furthermore, Beaumont and Hunter (2007) assign “*catalytic consultation*” as being the process that aims at:

“...developing cooperative spirit, genuine understanding of business needs and options and a joint problem-solving approach to workplace problems” (p. 1230).

Taking into consideration the guidance by ACAS (2005) and CIPD (2004), consultation is seen as the process by which managers seek and regard “*employees’ view before making a decision*”¹⁹. Moreover, according to relatively recent empirical findings, the definitions given in constitution agreements emerge as being similar, but in some cases there is also an emphasis on the purpose to “*reach an agreement*” and the possibility to have a mutual consensus in decision-making (Hall et al. 2007: pp. 47-48). In addition, collective consultation may encourage “*critical and constructive views*” to come up and potentially lead to “*consensus*” (Cox et al., 2007: p. 32). Nonetheless, there is scepticism about the extent to which employers really like to allow employees a wide scope of influence in the decision-making process. For instance, it is suggested that employers tend to be reluctant in engaging in negotiation or consultation procedures that involve important and “*core decisions*” (Ewing and Truter, 2005: p. 640). Moreover, some empirical evidence indicates that collective bargaining tends to be associated with real consultation (Millward et al., 2000), whilst collective consultation is usually just considered and perceived by management or employers as an upward or downward form of communication (Gollan and Wilkinson, 2007a; Brannen, 1983).

2.3 Information and Consultation of Employees (ICE) Regulations 2004

2.3.1 Overview

In the UK, the legal framework of employee consultation is considered to be minimalist, but the transposition of the ICE Directive may bring a significant change to this issue (Schomann, 2006). The main purpose of this EU Directive (as defined by article 1 of the ICE Directive: 2002/14/EC) is to:

¹⁹ Cited in Hall et al. (2007: p. 47).

“...establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the European Community...” (L 80/31²⁰).

Furthermore, Cressey (2009: p. 140) points out that the ICE Regulations involve business issues that are related to *“...tactical and operational management dealt with by lower representation...”* and compares the legislation with the European Company Statute (ECS), which is connected with relatively higher level representation and more strategic issues. In addition, a paper by Hall (2005b: pp. 103-126) provides a very comprehensive overview and assessment of the legislation arguing that:

“...the regulations will promote the spread of information and consultation arrangements within UK enterprises, but it remains to be seen to what extent, in what forms and with what results...” (p. 126).

Similarly, Beaumont and Hunter (2007) suggest that:

“...it remains to be seen how far the new [ICE] Regulations will bring about a significant and lasting change in the role of consultation in UK employment relations...” (p. 1230).

Also from this point of view, Gollan and Wilkinson (2007b) argue that:

“... the history and context of the Information and Consultation Directive passage into UK law and the implementation of the ICE Regulations potentially provide a guide to the future prospects of employee representation in the UK...” (p. 1157).

Initially, the UK government invited both social partners, i.e. representatives from CBI and TUC, in order to discuss possible ways of implementing the ICE Directive and this resulted in the development of an *“outline scheme”* for its legislative framework and implementation (Carley and Hall, 2008: p. 22). As already addressed

²⁰ Directive (2002/14/EC) of the European Parliament and of the Council (11 March 2002): “Establishing a General Framework for Informing and Consulting Employees in the European Community”, *Official Journal of the European Communities*, Published on 23rd March 2002, L80/29-L80/33.

above, the ICE Regulations²¹ have extended the statutory framework by establishing a minimum set of requirements in a very important area of industrial relations that has remained, until recently, a matter for voluntary determination (an overview of the statutory provisions is provided by many academics, such as: Hall, 2005b: p. 112; Tailby and Winchester, 2005: p. 445; Gollan and Wilkinson, 2007b: pp. 1150-1151; Dundon and Wilkinson, 2009: p. 414). In particular, the implementation of the ICE Directive²² in the UK was made in three sequential phases. Initially, from April 2005 it was applied to undertakings with at least 150 employees and since April 2007, the threshold was lowered to 100 employees, whereas from April 2008 onwards the minimum threshold was set at 50 employees.

Originally, the main objective of this legislation was to create a broader contextual framework for information and consultation in workplaces within the EU social dimension, so that employees would be able to be involved and hence exert a stronger influence over management decision-making (European Commission, 1998). It was also considered as a potential opportunity to fill a gap in statutory employment requirements and promote “*a higher degree of harmonisation of social laws in Europe*” (Schomann et al., 2006: p. 33). Member states were allowed discretion with regard to the transposition of the ICE Directive (2002/14/EC) and its practical implementation (article 4; L 80/32). Nonetheless, the British government was criticised for weakening the content of the legislation (Bercusson, 2002). Moreover, the Deputy Director of Employment Policy for the EEF highlighted the employers’ lobbying to ensure that they got the “*least worst deal*” for them (Yeandle, 2005: p. 30). In other words, the British government was viewed by many as trying to accommodate the interests of both social partners (employers and trade unions) and this subsequently led to the weakening of the ICE Directive, whilst the strong opposition of the EEF was also noteworthy. In particular, the EEF considered the imposition of a standard model and the “*one size fits all approach to information and consultation arrangements*” as “*completely inappropriate*” (ibid).

²¹ A brief overview and description regarding the content and provisions of the ICE Regulations are provided in the Appendices and Notes.

²² A comprehensive and detailed analysis of the legislation is provided by the DTI Guidance (January 2006) on the Information and Consultation of Employees Regulations 2004.

In conjunction with articles 1 and 4, it is argued that:

“...in accordance with the principles set out in Article 1, and without prejudice to any provisions, and/or practices in force more favourable to employees, the Member States shall determine the practical arrangements for exercising the right to information and consultation at the appropriate level...” (L 80/32).

Nevertheless, according to the statutory requirements employers and management must provide employee representatives with at least the standard information-sharing and consultation rights, whilst the minimal set of issues that should be included in the agenda can be laid out in the following way:

“(a) information on the recent and probable development of the undertaking’s activities and economic situation; (b) information and consultation on the situation, structure and probable development of employment, and on any anticipatory measures envisaged (especially about any threats to employment, such as redundancies, transfer of undertakings etc), (c) information and consultation, with a view to reaching an agreement, on decisions that are likely to lead to substantial changes in work organisation or in contractual relations” (adapted from the DTI Guidance, 2006).

Consequently, companies now have to consider the necessity that they have to comply with the legal requirements and also the possibility that employees may initiate the statutory procedures in order to enforce their information-sharing and consultation rights²³. However, it has to be noted that employers are allowed a great degree of flexibility in their responses and do not have to act unless 10 per cent or more of the workforce triggers the establishment of negotiations regarding the information and consultation arrangements, as defined by the statutory requirements of the legislation. In the case that 10 per cent of employees do make such a request, the standard provisions of the legislation must be implemented in instances where negotiations to reach an agreement fail. In this regard, Amicus’ complaints towards Macmillan

²³ Hereinafter, the verb enforce involves the notion of strengthening. More specifically, it is assumed that enforcement of information and consultation arrangements/rights practically involves the consolidation of more structured or even stronger/empowered forms of employee voice (in line with the statutory framework of the ICE Regulations), which may potentially lead to more effective employee voice (depending on the circumstances of each case-study) with relatively greater influence upon management prerogative (i.e. management decision-making) and subsequently such arrangements may be more likely to sustain forms of true-consultation rather than pseudo-consultation.

Publishers Ltd is one example where the employer was forced to adopt the standard statutory provisions, as enforced by the CAC, and employees requested new arrangements, which were subsequently implemented (detailed overview is provided in Dukes 2007: pp. 329-340; cited also in Gollan and Perkins, 2009: p. 211).

However, there is still scepticism about the available options for employees to trigger the procedures for negotiations, because even the 10 per cent threshold is considered “*a tough standard to meet*” (Hall, 2006: p. 461), especially in non-unionised workplaces. Nevertheless, the legislation provides a great degree of flexibility for the negotiated agreements and encourages a spirit of co-operation. In other words, it allows a great scope for employers and employee representatives regarding the actual content of these agreements, so as to reach a consensus that takes into account the “*interests of both the undertaking and employees*” (detailed overview is provided in DTI Guidance, 2006: pp. 34-39).

The main provision of the legislation, which is considered of paramount importance, is the necessity to attain the approval of employees for any sort of arrangements that may be suggested or put in place by employers (Dietz and Fortin, 2007). Assuming that there is already a valid pre-existing agreement (PEA), employees may request negotiations for new arrangements. Under such circumstances, the employer must comply or ballot the workforce on whether they support the request for new negotiations and these have to proceed, if only 40 per cent of employees endorse such a request (a detailed overview of these procedures are provided in the appendices and notes). Otherwise, the employer is not obliged to make any changes and the pre-existing arrangement shall remain as it is. It has to be noted that pre-existing agreements should be: written (including any possible collective agreement with the trade union), cover all employees, endorsed and approved by employees and should have clearly defined information and consultation arrangements. With respect to this issue, Dukes (2007: p. 329) points out that Moray council is a “*significant case*” of a pre-existing agreement being practically enforced by the Employment Appeal Tribunal (EAT) under the terms of the new legislation.

2.3.2 Debate about the ICE Regulations: Views from the Government and Social Partners

Before the implementation of the ICE Regulations, there was a discernible history of antipathy by management towards works councils, whilst trade unions often considered them as a threat to the “*traditional approaches to collective bargaining*” (Redfern, 2007: p. 293). The unions’ scepticism about the establishment of consultation forums was also recognisable in the past. For instance, according to the Bulletin of the European Communities (1975):

“In the past, an effort was made to draw a sharp distinction between consultation through the works council or some other medium, and negotiation through trade union machinery leading to collective agreements. This was largely the result of trade union suspicions that the works council could be used to undermine their position” (S. 8/75: p. 94).

The scepticism in relation to the unilateral establishment of consultation arrangements by management was also central to Ramsey’s (1977) publication about the “*Cycles of Control*” in which he emphasised the fact that such arrangements are potentially imposed as an effort to set aside and deter any initiative taken by “*organised labour*”, such as the establishment of union-based agreements (cited in Dundon and Gollan, 2007: p. 1190). It is also argued that even though trade union leaders tend to be less supportive towards voluntarism, they are still “*suspicious of statutory intervention in the sphere of employee representation*” (Tailby and Winchester, 2005: p. 447).

Furthermore, recent empirical evidence indicates that union representatives may be afraid of losing the power of their collective bargaining rights, especially in workplaces where they have “*minority membership*” (Hall et al., 2007: p. 70). This fear may subsequently lead to more direct and individualised mechanisms of information and consultation, with less power and influence over management decision-making (Marchington, 2000). This is also viewed as a “*substitution effect*”, through which there will be an ongoing attempt to “*exclude*” union forums and “*promote*” non-union forms of representation (Dundon et al., 2006: p. 498). On the other hand, the available evidence also indicates that management does not necessarily and universally “*use the ICE Regulations as a means to de-recognise*

unions in favour of the [consultative] forum” (Hall et al., 2007: p. 73). Taking into consideration the experience of analogous UK legislation²⁴ on employee participation in relation to the implementation of the EWC Directive, it is argued that trade union and employee representatives generally consider works councils as “*beneficial*” for collective bargaining purposes (Cressey, 1998: p. 78).

The “*reflexive*” character of the ICE Regulations is actually described as an effort to “*underpin and encourage autonomous process of adjustment*” (Barnard and Deakin, 2000: p. 341; cited in Hall, 2006: p. 456), whilst this also highlights the fact that the UK government “*sought to inject a strong degree of flexibility in the way in which it would be implemented*” (Tailby and Winchester, 2005: p. 444). Furthermore, the view from the TUC is that the UK government adopts a “*voluntarist approach*” so as to uphold “*the UK’s traditions for the voluntary regulation of employment relations*” (Veale, 2005: p. 27). As has been noted in the previous section, the CBI was strongly opposed to the transposition of the ICE Directive and opted to follow a “*minimalist approach*” regarding its implementation (Carley and Hall, 2008: p. 27). In particular, they provided positive comments on the government’s attempt to weaken the practical contents of the legislation, urging them to accept “*the least damaging deal available*” during the negotiation process with TUC, in relation to the directive’s final text (ibid). In addition, “*EU intervention*” in national legislation on employee rights was strongly criticised by the employers (cited in Tailby and Winchester, 2005: p. 444).

However, the UK government is currently positive towards the implementation of the ICE Regulations, in spite of its initial reservations and scepticism. For instance, the minister responsible for the enactment and transposition of the legislation provided vigorous support (Hall, 2005b) and in addition, according to the official DTI Guidance (2006):

“...the government strongly supports the principle of employers informing and consulting their employees on an on-going basis about matters that may affect them. It is good for the employees themselves, and good for the organisations they work for... the government would encourage all employers, irrespective of their size and the

²⁴ Hall (2006: p. 457) characterises as “*analogous UK legislation*” the experience of EWCs and he links its relevance to the ICE Directive.

nature of their activity, to inform and consult their employees in a way suited to their particular circumstances...” (p. 4).

The development of the ICE Regulations has drawn strong attention as an issue for research in the area of British employment relations. For instance, as previously noted in chapter 1, Hall et al. (2007) published a very thorough and consistent analysis/report on the initial impact of the legislation, employing a longitudinal case-study method in thirteen organisations with at least 150 employees. Afterwards, through a similar method they identified a sample of eight organisations with at least 100 employees (Hall et al., 2008). Furthermore, in December 2009, they published a provisional report using a sample of four organisations with at least 50 employees (Hall et al., 2009b).

Trade union officials commented extensively on the ICE Regulations. In particular, the TUC views the transposition of the EU Directive as a “*real strategic breakthrough*” (Hall 2005b: p. 103). Furthermore, Veale (2005) points out the positive official stance of TUC concerning the implementation of the ICE Regulations:

“...this legislation represents a radical development in the UK context, introducing for the first time a comprehensive statutory framework regulating employee information and consultation issues...” (p. 21);

“... [it] is potentially the most significant piece of employment relations legislation ever to be introduced in the UK...” (p. 22).

Moreover, British trade unions, including USDAW, have been promoting the idea of establishing strong mechanisms of information and consultation and describe the legislation as an “*opportunity*” for union representatives to “*get a foot in the door*” (2006: p. 3) through consultation forums and potentially attain a formal trade union recognition agreement in workplaces if there is not any form of collective bargaining (a brief overview is provided in the USDAW guide on the ICE Regulations²⁵):

²⁵ USDAW (2006) *The Information and Consultation of Employees Regulations*, Published on: 10th May 2006.

“building the union’s influence through information and consultation could form an integral part of an organising strategy...The information and consultation procedures offer an opportunity to gain access to companies where this was previously difficult [especially the non-unionised ones]. Where it might be difficult to get statutory recognition initially, the legislation gives the union the opportunity to sit down with employers and gives access to employees. Starting an organising strategy with a view to getting an agreement could be a good starting point for a more sustained organising campaign later” (2006: p. 3).

Similarly, the Unite union (2007) provides a very comprehensive and detailed guide about the ICE Regulations, and puts a great emphasis on the strategy that it believes its members should follow²⁶. Even the EEF now provides support for the ICE Regulations, stressing their positive outcomes:

“There is now a growing volume of evidence from many different sources that informing and consulting employees can improve business performance. It is also EEF’s practical experience from talking to members, both large and small, that an increasing number of manufacturers are using a range of methods to inform and consult with their employees” (Yeandle, 2005: p. 29).

Many researchers claim that unionised forms of representation are stronger than the “inferior” and internally-based voice mechanisms, such as the information and consultation arrangements (Harcourt et al., 2004; c. f. Millward et al., 2000; cited in Brewster et al., 2007: p. 1249). Moreover, nowadays one of the main aims of the TUC is to ensure that trade unions have sufficient “*organising opportunities*” without being susceptible to losing the legitimacy of their voice over the current information and consultation arrangements, as defined in the existing collective agreements (Carley and Hall, 2008: p. 27). In particular, Carley and Hall (2008) emphasise the debate amongst the social partners, with special regard to the trade unions that are traditionally regarded as the sole or main representation channel, in relation to the “*perceived threat to their position from new channels and structures*” (p. 31) through the establishment or modification of information and consultation arrangements.

²⁶ UNITE the Union (2007) *The Information and Consultation of Employees Regulations 2004 (the ICE Regulations)*, Guidance for Unite Amicus Section Officers and Workplace Representatives, (1st Printing: June 2007), Published by Unite Amicus section.

According to Gollan et al. (2006: p. 506), there is also scepticism about the extent to which unions can “*meet the needs of either employees and management*”, and whether they can be perceived by the employees “*as both representative and able to act independently*”. That is, unless they can adequately satisfy the aforementioned requirements, they may lose their influence or even be “*supplanted*” under the provisions of the ICE Regulations (ibid). However, it has to be noted that trade unions (such as: Unite or Amicus) are formally encouraging officials to be more active and thus take advantage of the opportunities provided by the legislation. For instance, Amicus guidance urges union representatives to negotiate with the purpose to reach, at least, the standard statutory requirements of the legislation (Hall, 2006). Furthermore, the representatives of this union are strongly advised to seek the opinions of “*national or regional officers*” before getting involved in any negotiation procedures (Amicus, 2004: p. 16; cited in Hall, 2006: p. 467).

In one of its most recently published guides (June 2007), Unite puts a great emphasis on the way in which its members should become involved under the new arrangements, in order to prevent any potential management strategy that seeks to undermine their role in relation to collective bargaining rights:

“Unite Amicus Section prefers for all new recognition agreements to cover the requirements of the [ICE] Regulations wherever possible to pre-empt alternative arrangements being introduced which might undermine the union’s role” (Unite the Union, 2007: p. 8).

Furthermore, according to the aforementioned guide of the Unite union it is considered that this legislation may stimulate union involvement and recruitment, with the added corollary that members should make sure that “*collective rights are not undermined*” (ibid). In addition, it is strongly recommended that union officials/representatives should not agree to sign any sort of agreement unless the minimum statutory rights are sufficiently considered. The guide also urges its members to be very careful regarding employers’ proposals and avoid any sort of information and consultation arrangements that may potentially:

“... (a) undermine existing recognition provisions because the (I)nformation & (C)onsultation group would overlap with what had previously been collective bargaining areas..., (b) undermine union representation arrangements, e.g. by guaranteeing non-union I & C representative places in bargaining units where the union is recognised..., (c) undermine union information and influence by providing for company representatives to meet with I & C Reps more frequently than they meet with union negotiating bodies..., (d) harm the trust and communication between union workplace representatives or officers, and the members they represent, but giving the company too much discretion to decide what information given under I & C provisions is ‘confidential’...” (ibid).

There is also a separate section that provides a comprehensive guide that distinguishes how the union sees the difference between consultation and negotiation.

“Where there are union and non-union representatives, a frequent option has been to introduce an over-arching information and consultation committee, incorporating representatives of both union and non-union groups, with trade union representatives continuing to negotiate in a separate body. Information and consultation can therefore be kept separate from negotiation” (Unite the Union, 2007: p. 10).

In this vein, it is suggested that the transposition of the ICE Directive, alongside union representation, may lead to *“the ‘next best’ option”* which is the *“dual channel voice”* (Willman et al., 2007: p. 1332). In particular, the findings by Hall et al. (2007) suggest that trade union officials are, in general, tending to accommodate the information and consultation forums as a separate body of representation. On the other hand, there is a great emphasis still placed on the *“negotiating role”* of union representatives, and the distinctive *“demarcation line”* between the consultation forums and negotiation bodies, which underlines the generally cautious attitude of unions towards non-union representative bodies (ibid: pp. 58-60). Similarly, the USDAW (2006) guidance refers to this situation:

“...ideally the union should seek to negotiate with the employer to secure the Union’s role in the process – for example having reserved seats...” (p. 4).

More specifically, there is evidence that non-union representatives do not participate in meetings when union-based issues are included on the agendas. By contrast, *“negotiation and bargaining rights”* are rarely included as issues for discussion on consultation forums/committees (cited in Gollan and Wilkinson, 2007a: p. 1137). In reality, the evidence suggests that management usually tries to ensure that any sort of collective negotiation procedure is not included in the agreed constitution of information and consultation arrangements (Wilkinson et al., 2007; Beaumont and Hunter, 2007; Hall et al., 2007). The scepticism about the extent to which the *“dual system of employee representation”* can be accommodated successfully, with the involvement of both union and non-union delegates, was also raised in relation to the implementation of the EWC Directive (cited in Weston and Martinez-Lucio, 1997: p. 777). Therefore, one of the key themes that emerges from the above discussion is the extent to which the ICE Regulations can strengthen the role of trade unions and their influence over management decision-making. In this regard, USDAW (2006) guidance regarding the perspectives on the ICE Regulations supports the involvement of union representatives, as this union sees this legislation as an opportunity to enhance the role of trade union officials:

“...being part of the process and having union members involved in information and consultation procedures allows the union to have influence inside some companies for the first time. Union representatives can show that they have experience, training and expert back up of USDAW to be effective... The information and consultation process acts as a ‘shop window’ in which the Union can demonstrate its value to all employees. Importantly this occurs within the workplace and enables the union to show the tangible benefits of union membership to that particular workforce...” (p. 3).

By contrast, from the pessimistic point of view on the part of the unions, questions have been raised about the extent to which the legislation could undermine collective bargaining rights, by providing further impetus to employers for the establishment of non-union representation forms, which encourage the growth of broader forms of employee voice and dissuade the development of negotiation forums. Furthermore, Marchington (2005) strongly criticises the fact that trade unions in the UK are still having to try to *“get rights to information and consultation in line with their EU counterparts”* (p. 27). In addition, unions are generally wary of the establishment of

broad forms of consultation, perceiving them as threats to the power of their collective bargaining (Hall, 2006). For instance, the guidance by USDAW (2006) puts a great emphasis on the potential pitfalls of establishing consultation arrangements, such as the management strategy of unilaterally establishing pre-emptive agreements, which may restrict the scope of action that is available to employee and union representatives. This guidance also emphasises the necessity for union representatives to challenge the development of such agreements, if they are seen to be inferior to current union-based arrangements.

“...just as the union can seek to use the legislation to its advantage, employers too may look to gain an advantage. The union has to be aware of these as it is far more difficult altering an information and consultation agreement than setting one up. There are two main dangers: the creation of non-union consultative bodies and inferior agreements...” (USDAW, 2006: p. 4).

Furthermore, serious concerns have been expressed that pre-existing agreements may end up being used as a unilateral attempt by management to comply satisfactorily with the statutory requirements and yet establish only minimal provisions. In this regard, there have also been warnings that such agreements may not be easily challenged, owing to the higher threshold which is required in order for employees to be legally entitled to request negotiations for reviewing the current arrangements.

“The legislation does not guarantee a place to the union. Therefore, there is a danger that a consultative body, such as a staff council, could be entirely of non-union representatives ... [especially] in workplaces with low levels of membership... Some companies may feel that they have to comply with the legislation immediately. In this case the employer could instigate the process themselves and rush through an inferior agreement ... Employers could also seek to place items that were previously on the bargaining agenda onto the information and consultation agenda which could limit the effectiveness of the union...” (ibid).

Finally, it is noteworthy that both the CBI and TUC have expressed their concerns regarding the provisions of legislation on triggering the negotiations when information and consultation arrangements are already in place. More specifically, the CBI would like to maintain “existing company practice” (Carley and Hall, 2008: p.

28), whereas, on the other hand the TUC does not want any “*existing arrangements*”, especially these included in formal trade union recognition agreements, to be superseded by relatively inferior and alternative arrangements (ibid).

2.3.3 Contextual and Organisational Factors Affecting Information and Consultation Arrangements

Communication practices within an organisation can be significantly affected by “*institutional and legislative*” factors (Brewster, 2007: p. 782). A thorough and consistent analysis, regarding the impact of EWCs on management decision-making, indicates that the effectiveness of consultative bodies relies on a range of contextual conditions (Marginson et al. 2004: pp. 210-215). In particular, these conditions include: the fit between the consultative infrastructure and key level(s) of management, the context/platform of industrial relations, the unionised or non-unionised setting, management policy towards the consultation forums and the cohesiveness of employee representation (ibid). From the early 1990s until relatively recently, case-study evidence (for instance: Marchington, 1994; Beaumont and Hunter, 2003) clearly shows that variation in: objectives, scope, and operation, and also the impact of: information, communication and consultation mechanisms are affected by organisational factors (such as: decision-making structures, and institutional arrangements for collective bargaining and negotiation procedures). At a wider level, the “*size of the firms*” and the type of “*industrial sector*” are also considered as important variables that may shape the form of employee voice mechanisms (Brewster et al., 2007b: p. 1253).

Furthermore, academic researchers emphasise the importance of the development of trust, because consultation should be considered to be a continuing relationship. More specifically, it is stated that a “*loss [or] violation of trust*” can lead to less open forms of communication and thus negatively affect the consultation process (Beaumont and Hunter, 2007: p. 1232). In particular, “*trust*” is considered to be substantial for the effective operation of JCCs and it is included in the list of “*antecedents, determinants, outcomes mediators or moderators*”, with regard to the “*life-cycle*” of the consultation process (Dietz and Fortin, 2007: p. 1163). In general, within more co-operative and less adversarial workplaces, collective representation tends to be more common alongside other forms of employee voice (Brewster et al., 2007b; Thelen,

2001). The importance of maintaining high levels of trust, concerning the functioning of JCCs, is also highlighted by Marchington and Armstrong (1986: p. 169) together with external and internal organisational conditions, such as: *“product market determinism, oppositional management approaches, ability of employers to impose their preferred strategies on employees and effective union organisation”*.

Dundon et al. (2003: p. 65) provide a framework of *“good practice”* in the area of information and consultation, involving the use of key policy areas that include: *“perceptions, structures, processes, integration and representation”*. According to the aforementioned framework, the *“degree and range”* of involvement practices (as similarly cited in Marchington and Wilkinson, 2005b: p. 400), the legitimate role of employee representatives to ascertain a significant influence over management decision-making, and overall, the co-existence of both direct and indirect methods of participation, are all important considerations in the development of effective information and consultation mechanisms. Furthermore, Storey (2005: p. 4) points out key themes that need to be taken into account when implementing these mechanisms, such as the: training of representatives, scepticism by employers, trade unions and individual employees, and issues that involve *“suspicion and resistance”*.

Gollan and Wilkinson²⁷ (2007b: p. 1153) emphasise the *“micro-level”* factors that can affect the extent to which information and consultation mechanisms are effective in the workplace. More specifically, these factors include: *“...leadership skills, vision, time and [the] resources...”* that are required so that a change in *“culture”* can be achieved (ibid). They also point out that *“macro-level”* factors²⁸, i.e. *“problems of disconnected capitalism”*, also cited in Thompson (2003), can strongly affect

²⁷ Furthermore, Gollan and Wilkinson (2007b: pp. 1153-1154) have adapted the model developed by Kostova and Roth (2002) in order to illustrate the possible available ways for organisations to respond to the implementation of the ICE Regulations. Organisations that have reviewed and adjusted their already established information and consultation mechanisms are denoted as *“true believers”*; they are following the *“active adoption”* together with the *“converters”* (cited in Gollan and Wilkinson, 2007b: pp. 1153-1154). Employers that are forced to comply with the statutory requirements of the legislation, but they are not strongly embracing employee involvement practices, are following the *“ceremonial adoption”* (ibid). On the other hand, employers, who support the employee involvement practices but they are not complying with the ICE Regulations, are following the *“assent adoption”* (ibid). In addition, those, who do not embrace employee involvement practices and are not complying with the legislation, are considered as having the *“minimal adoption”* approach (ibid).

²⁸ More specifically, Gollan and Wilkinson (2007b) take into consideration the rationale by Thompson (2003) and suggest that *“...it is difficult for managers – whatever their personal inclinations – to provide the time and flexibility to allow workers to be more involved in a meaningful way. To the extent that they can allow ‘bargains’, either by negotiation or consultation, these are fragile creatures all too easily wrecked by external forces...”* (p. 1153).

collective bargaining procedures, such as: consultation and negotiation. Similarly, according to the empirical findings of Wilkinson et al. (2007: pp. 1289-93) “*internal factors*” (i.e. management style and social processes) and “*external factors*” (i.e. market characteristics and organisational restructuring) can perform a crucial role in the consultation process. In sum, consultation is susceptible to various factors and thus can be described as “*fragile*” (Beaumont and Hunter, 2007: p. 1242).

In addition, Hall et al. (2007: pp. 16-26) provide a solid analysis of the factors that can potentially affect “*company strategy*” in relation to information and consultation arrangements. These factors indicatively include: the status of ownership, crisis or major organisational change, change of management team, approaches towards employee involvement practices, presence or not of a recognised trade union, management attitude towards the trade unions, and finally, the actual influence of legislation on management thinking. Moreover, Dundon et al. (2006) argue that a set of analogous variables can influence the effectiveness of regulatory voice mechanisms, which include “*managerial attitudes, employee expectations, union demands, and business pressures*” (p. 507). For instance, according to Blyton and Turnbull (2004), when management does not provide strong support towards the development of employee involvement practices, consultation can become ineffective and take place after the decision-making and as a result, the former is actually “*selling decisions rather than consulting over them*” (p. 275). That is, under these circumstances employee participation relies upon pseudo-consultation rather than true-consultation.

Evidence from the implementation of an analogous EU Directive, namely that of EWCs, illustrates that the effectiveness of employee voice mechanisms generally depends on the “*practices and assumptions embedded*” in the institutional environment of British industrial relations (Stirling and Tully, 2004: p. 79). Furthermore, negotiations on setting up or reviewing information and consultation arrangements can depend on “*company-specific factors*”, such as: the nature of the business and industrial relations arrangements/traditions (Gilman and Marginson, 2002: p. 38). In other words, forms of representation cannot exist in a vacuum and their outcomes are reliant upon a specific contextual set of conditions. For instance, an IPA survey indicates that these outcomes are “*mediated through changes in attitude*

and behaviour, better relations with unions or representatives, less resistance [etc]...” (Coupar and Stevens, 2005: p. 50) and not simply through compliance with the requirements of the ICE Regulations, whose features are flexible and the imposition of whose provisions is voluntary.

According to Blyton and Turnbull (2004), the content of the ICE Regulations can provide a consistent set of opportunities, especially under specific conditions (which are weak and not sufficient within the context of UK employment relations). These conditions include: (a) the level of effectiveness of works councils within the context of the statutory framework of employee involvement and collective representation, (b) the extent to which employers, employees and trade unions are actively engaged in workplace-based participation, and (c) the robust provision of statutory rights that can enable work councils to be independent from management (Truter, 2003 and Wever, 1995; cited in Blyton and Turnbull, 2004: pp. 267-268). Furthermore, they point out the fundamental role that the state can play in the “*development of consultation*” and suggest that the UK government has not taken any substantial and influential initiative for adequately establishing favourable conditions (Blyton and Turnbull, 2004: p. 267).

2.3.4 Changes and Adjustments to Information and Consultation Arrangements: Strategies and Approaches Adopted by Employers, Managers and Trade Unions

As Gollan and Wilkinson (2007) argue, the ICE Regulations could potentially improve the context of British industrial relations, but this will rely heavily on “...*the strategies of employers, and the response by employees and trade unions to these initiatives...*” (2007a: p. 1134). Similarly, Doherty (2008: p. 619) suggests that the “*structure and content*” of the ICE Directive are important, but also that “*processes*” are equally critical as well (i.e. strategies by actors, existing structures, enforcement etc). The legislation also provides the social partners with a flexible range of choices and options “*both procedurally and substantively*” (Hall, 2006: p. 456).

Relationship with employees	Commitment /Involvement	Individual-based high commitment Management. Extensive direct-voice systems (Box 2)	Emphasis on individual-based high commitment management. Hands-off relationship with organised labour. Low trust of external unions (Box 4)	High-commitment management. Partnership with organised labour. Extensive voice systems. High trust. (Box 6)
	Command/Control	Low-trust. No voice. (Box 1)	Low trust. Restricted voice. Conflict. (Box 3)	Emasculated union/representatives. No real voice. 'Sweetheart unionism'. (Box 5)
		Avoidance	Adversarial	Cooperative
Relationship with trade unions and elected works council etc				

Figure 2.4: Voice Systems and Management Style. Adapted from Boxall and Purcell (2003: p. 180).

The above model in figure 2.4 (as adapted from Boxall and Purcell, 2003: pp. 180-181) suggests that the attitude of organisations towards “*legislative voice mechanisms*” can potentially be problematic in command/control environments, especially if there is strong avoidance of trade union recognition. On the other hand, such legislative mechanisms can be effectively developed and further enforced in workplaces where high commitment/involvement practices are supported and co-operative or less adversarial relationships have been developed by management with employee and/or trade union representatives. Likewise, Sisson (2002) observes that information and consultation mechanisms can be more effectively applied within a climate of: mutual respect, trust, co-operation, openness and honesty, whilst such mechanisms will be potentially ineffective in a command and control culture, where there is no consensus in decision-making.

In general, it is argued that non-union voice mechanisms can be influenced by a set or “*map of factors*”, as illustrated by Dundon and Gollan (2007: pp. 1185-1189). More specifically, these are classified as “*micro/organisational dimensions [or] dynamics*” (such as: the management approach towards trade unions and the development of trust in employee relations) and “*macro/environmental factors*” (such as: market influences and the regulatory environment). “*These general sets of potential*

influences” should be considered in order to develop a holistic and integrated approach and understand better the context of employee voice mechanisms in non-unionised workplaces (ibid: p. 1189) and there needs to be a keen awareness of the potential negative outcomes of “*union avoidance, ideological hostility [and] irrational/rational employer behaviour*” (ibid: p. 1189-1194). In sum, not only is the ICE Directive one of the necessary prerequisites in order to develop consistent forms of employee voice, but also other factors, such as “*organisational dynamics*”, need to be taken into account (ibid: p. 1183) and there ought to be an equal involvement of all parties or social partners.

The aforementioned strategies that can be engaged in by employers who are against the establishment of union-based arrangements are also described as “*union substitution*” or “*union suppression*” (ibid: p. 1189; also cited in Marchington and Wilkinson, 2005a: pp. 276-279) and they focus on the principle to “*reduce the likelihood of outside involvement by trade unions, ensuring that voice processes are contained within the organisations*” (Dundon and Gollan, 2007: p. 1189). In particular, figure 2.5 provides a brief overview that embodies the “*strategies and objectives of non-union voice arrangements*” (ibid: p. 1190), where in the mutual case (win-win) the interest of all parties is promoted by: co-determination, joint-consultation and co-operation schemes, through dual channels of representation. On the other hand, conflictual (win-lose) workplace relations are more likely to emerge in single channels of representation where limited workplace decision-making exists and unionised forms of representation are not prioritised. Also, this theoretical framework underlines that non-union arrangements may operate either as a complementary voice mechanism to management decision-making or act as a substitute for union representation. In the latter case, it is widely believed that they have often emerged as a result of a management initiative with the purpose to dissuade the involvement of trade unions and to discourage any sort of formal recognition agreement.

Characteristics	Complement		Substitute
	Mutual (win-win)	Conflictual (win-lose)	Mutual (win-win)
Representative Interest			
Process	Co-determination/ Joint Consultation	Representation of employee interests	Co-operation
Power Base	Legally imposed or management initiative	Legally imposed or management initiative	Management Initiative
Channel of Representation	Dual	Single	Dual
Rights	Information, Consultation, Co-decision making, limited veto powers	Information, Consultation, Limited Workplace Decision-making	Production, Line Information, Suggestion Schemes, Problem Identification

Figure 2.5: Strategies and Objectives of Non-Union Employee Voice Arrangements. Adapted from Gollan (2000: p. 415), and Also Cited in Dundon and Gollan (2007: p. 1190).

According to the available research evidence, there is scepticism about the extent to which non-unionised arrangements and structures can actually provide effective means of information-sharing, communication and consultation and whether these means can fill the gap in the area of employee representation (for example: Charlwood and Terry, 2007; Tailby et al., 2007; Freeman and Rogers, 1999; Towers, 1997). However, for those workplaces where there is no structured employee representation, the ICE Regulations do provide non-unionised employees the opportunity to request the establishment of standard and basic information and consultation arrangements. In such cases, the single channel of representation can be established either by management initiative or by employee request. In other words, the ICE Directive can slowly bring a convergence across non-unionised workplaces, with regard to employee representation, as the statutory provisions become more embedded in practice. Under these circumstances, the arrangements provide basic consultation rights, but it is still questionable to what extent the non-union employee representatives can have an impact on workplace decision-making, as their ability to

influence management prerogative is considered by many academics to be limited (Gollan and Wilkinson, 2007; Dundon and Gollan, 2007).

2.3.5 ICE Regulations: Challenges and Opportunities for Management, Individual Employees and Trade Unions

a) Industrial Democracy and Social Partnership in the Workplaces

By the late 1970s, “*participation reached its high point in the UK*” (Dundon and Wilkinson, 2009: p. 406) and at the same time the notion of industrial democracy and the issue of “*how workers might be represented at board level*” was discussed in the Bullock Report²⁹ (Bullock, 1977; cited in Dundon and Wilkinson, 2009: pp. 406-407). In addition, industrial democracy was promoted by the trade unions that had relatively strong collective bargaining power. Furthermore, in this context the provision of the Labour government’s Social Contract was viewed as being an attempt to promote employee rights (Ackers et al, 1992). However, the idiosyncrasies of the British industrial relations system and employee participation practices, in combination with the sociological context, led Brannen (1983) to surmise that “*...the barriers to both economic and industrial democracy are very great and deep-rooted in [British] society...*” (p. 155) and thus very difficult to change. Similarly, according to Lorber (2006: pp. 252-253):

“...the defence of workers’ interests has been through the medium of collective bargaining and industrial action, trade unions being the representatives of the workforce. There was a focus on the market function of collective representation, as opposed to the industrial democracy function. This traditional system has evolved with a strong decentralisation of collective bargaining towards company level...”.

At the European level, “*social dialogue centres on partnership*” between trade unions and employers and the role of works councils as “*representative bodies*” is also highlighted (Marchington and Wilkinson, 2005a: pp. 286-287). The notion of partnership was firmly supported by the Labour government in 1997, with the debate in the UK about this concept primarily relying on issues involving “*company and workplace employment relations*” (Tailby and Winchester, 2005: p. 432), which

²⁹ The concept of industrial democracy was discussed in Lord’s Bullock Report in 1977, which subsequently resulted in a white paper in 1978 (Bullock, 1977; cited in Dundon and Wilkinson, 2009: pp. 406-407).

contrasted with the more robust institutionalisation and stronger legislative context that characterised other Western European countries (Haynes and Allen, 2001; Heery, 2002; Terry, 2003; cited in Marchington and Wilkinson, 2005a: p. 287). In other words, the notion of partnership between management and trade unions, in the UK context, that was pioneered at the beginning of 1990s was primarily at the enterprise level, and mainly focussed on “*business or corporate restructuring initiatives*” (Tailby and Winchester, 2005: p. 439). In addition, Gill et al. (1999) argued that the government and trade unions in Great Britain were more “*keen to pursue the notion of social partnership*” (p. 319). Further, according to Casey and Gold (2000: p. 119) the concept of social partnership or dialogue, within the context of British industrial relations can be considered as:

“... forums where employers, workers and their representative bodies (referred to in short as ‘insiders’) discuss ‘insider issues’ (such as pay, terms and conditions and rights at work) through consultation procedures and collective bargaining...”.

Oxenbridge and Brown (2005) provide examples of partnership orientated organisations in the UK between management and trade unions (cited in Tailby and Winchester, 2005: p. 439). In general, it is also suggested that social partnership could: effectively accommodate different interests amongst workers and managers, promote the establishment and operation of workplace representative bodies and regulate the operation of labour markets (Ferner and Hyman, 1998).

One fundamental aspect regarding the implications of the ICE Regulations is concerned “*with the principles of democracy*” (Gollan and Wilkinson, 2007b: p. 1147). In this regard, as previously noted, the implementation of the ICE Directive establishes for the first time a general statutory framework that provides employees the right to be informed and consulted by their employers on a range of key: business, employment and restructuring issues. Consequently, under this set of arrangements the concept of “*workplace democracy*” can be further promoted as the “*discretion of management*” in decision-making being constrained or challenged and thus employees become more involved in the development of consultation procedures (Sisson, 2002; Coriat, 2002; cited in Dundon et al., 2003: p. 18).

The requirement to strengthen the concept of social dialogue and promote the principles of mutual trust and employee involvement, at the European level, is also pinpointed in the formal document of the ICE Directive (2002/14/EC), as published in the Official Journal of the European Communities in March 2002³⁰.

“There is a need to strengthen dialogue and promote mutual trust within undertakings in order to improve risk anticipation, make work organisation more flexible and facilitate employee access to training within the undertaking while maintaining security, make employees aware of adaptation needs, increase employees’ availability to undertake measures and activities to increase their employability, promote employee involvement in the operation and future of the undertaking and increase its competitiveness... Timely information and consultation is a prerequisite for the success of the restructuring and adaptation of undertakings to the new conditions created by globalisation of the economy, particularly through the development of new forms of organisation of work...” (L 80/29).

Taking into consideration the implementation of the EWC Directive, McGlynn (1995) emphasises that management prerogative is difficult to challenge. In particular:

“...employees under the terms of [the EWC Directive] only have the right to be informed and consulted: the prerogatives of management are unaffected. At the end of the day, management may still take the decision initially proposed...” (ibid: p. 82).

“... the [EWC] Directive...decentralises the decisions as to the structure of information and consultation procedures, allowing the decisions to be taken at the most appropriate and lowest level. Further, in seeking to encourage partnership between labour and capital, the [EWC] Directive recognises that partnership will best be supported and sustained where the parties can reach agreement among themselves as to the terms most suitable to them...” (ibid: p. 83).

Nonetheless, in light of the “*experience of analogous UK legislation*” (Hall, 2006: p. 457), the ICE Directive (on employee participation) could potentially be seen as a good opportunity to promote the concept of social partnership in the workplace and

³⁰ Directive (2002/14/EC) of the European Parliament and of the Council (11 March 2002): “Establishing a General Framework for Informing and Consulting Employees in the European Community”, *Official Journal of the European Communities*, Published on 23rd March 2002, L80/29-L80/33.

thus bring the context of UK employment relations closer to the notion of industrial democracy, as expressed in the European social model.

b) Challenging Management Prerogative and Influencing Decision-Making

Casey and Gold (2000: p. 105) envisaged that the new Labour government in 1997 put “*a brake on almost 20 years of government emphasis on managerial prerogative*” through the backing of “*new forms of social partnership at work*”. In this regard, at this time the prevalence of managerial prerogative was evident in the information and consultation arrangements in British workplaces, which were primarily based on the “*discretion of management*” and this remained especially so until the transposition of the ICE Directive (Marchington et al., 1992; Gunnigle et al., 2002; cited in Dundon et al., 2003: p. 18). Moreover, management decision-making in the UK has had to deal with “*fewer legal constraints*”, in comparison with the majority of “*other EU member states*” (Tailby and Winchester, 2005: p. 448). As it has been mentioned above, these arrangements have been developed within a contextual framework that features the parameters of “*disorganised decentralisation*” (Traxler, 1995: pp. 6-7) or “*decentralised collective bargaining and consultative trajectory*” along with “*a long history of voluntarist industrial relations*” (Wilkinson et al., 2004: p. 298).

In general, consultation arrangements can potentially allow employees to: have stronger influence in their workplaces, challenge the “*managerial prerogative*” (Gollan, 2002; Sisson, 2002; cited in Dundon et al., 2006: p. 493), enhance their influence over decision making (Gollan, 2005) and affect the “*power relations*” between employee and employer (Dundon et al., 2006; quoted in Wilkinson et al., 2007: p. 1280). Much of the relevant literature also contends that it is important for employees to have “*a say in matters*” and decisions that “*affect them*”, so that they can perceive the potential outcomes in a “*positive*” way, and thus be able to adapt them (McCabe and Lewin, 1992; Oxenbridge and Brown, 2002; cited in Dundon et al., 2003: p. 16). Similarly, the need to establish and develop more consistent information and consultation mechanisms are emphasised in ACAS research papers, which point out various positive and beneficial outcomes, such as:

“...better quality and more enduring decisions; better employment relations... less resistance and conflict; fewer disputes; better morale; ... [and] more effective change management...” (Dix and Oxenbridge, 2003: p. 24).

Furthermore, Dundon et al. (2006) suggest that the recent legislation is an opportunity for change in the area of industrial relations, as it allows for the establishment of collective voice mechanisms in the current non-unionised workplaces and enables the employees to become involved in *“decision-making processes”* (p. 318). Sisson (2002) also emphasises the benefits of setting up effective mechanisms of information and consultation:

“...effective information and consultation is a critical tool in obtaining the input of employees – the scrutinizing of proposals by employees can lead to alternative and better decisions... if implemented together with other so-called ‘high commitment management practices’, [information and consultation arrangements] are positively associated with improvements in performance outcomes...” (p. 6).

On the other hand, there has been a lot of criticism about the limitations of the ICE Regulations in relation to the great scope for unilateral action that is being provided to management, which may lead to *“preferred consultation arrangements”* (Tailby et al., 2007: p. 211). Employees could also perceive that the legislation can achieve very little in relation to *“true consultation”* (Wilkinson et al., 2007: 1295). Thus, to date, consultation has often been regarded, within the JCCs, as a process by which employees’ views are heard, but the final decision-making still relies upon management prerogative (Brewster et al., 2007a; Wood, 2008). A number of academics (Bercusson, 2002; Scott, 2002; Hardy and Adnett, 2006) have criticised the initial reservations of the UK government towards the drafting of the ICE Regulations, pointing to its strenuous effort to weaken the content of the legislation (cited also in Gollan and Wilkinson, 2007b: pp. 1149-1151). As a result of this effort, it has been suggested that the *“diluted”* contextual framework of this legislation does not *“provide grounds for optimism”* and therefore strong forms of employee involvement still need to be developed (Truter, 2003: p. 30; quoted in Blyton and Turnbull, 2004: p. 267).

The available literature does illustrate clear differences in the attitudes of management towards the notions of information and consultation. More specifically, management tends to be quite open towards information and communication procedures, but less enthusiastic to consult with employees, owing to the fear of losing its existing prerogative (Hall, 2005a). Furthermore, according to Gollan and Wilkinson (2007a), empirical research in the UK indicates that JCCs mainly tend to be unilaterally established by management and, in such cases, *“the main aim of collective consultation is to increase information and communication, rather than bargaining”* (p. 1136).

Whatever the prospective outcomes of the ICE Regulations, there are still strong grounds to support the argument that management is still the main *“strategic policy actor in adapting and interpreting the legislation”* (Dundon et al., 2004: p. 1168). Furthermore, it can be claimed with strong evidence that it is the combination of *“regulatory pressures”* and *“managerial choices”* that determines the strength and effectiveness of voice mechanisms (ibid: p. 1167). However, employee rights that are provided by law are considered to be *“the single most important resource for unions engaged in effective consultation”* (Terry, 2003a: p. 498), if managers’ control over decision making is to be effectively challenged. Nevertheless, it was previously noted that *“formal agreements”* are not sufficient enough to bring significant changes and develop effective forms of employee voice and other factors within the organisational context need to be effectively combined with these, so as to ensure the efficacy of these mechanisms (Stirling and Tully, 2004: p. 79).

Recent case-study evidence indicates that there is a tendency for management to espouse some sort of *“commitment to act”* in order to secure compliance with the minimal requirements of the legislation (Hall et al., 2007: p. 25) and moreover, information and consultation arrangements tend to be unilaterally set up by them with the emphasis being placed on information-sharing (ibid: p. 47). Therefore, the effectiveness of these mechanisms is questionable, especially when the *“goals”* and *“priorities”* are primarily set by management (Marsden, 2007: p. 1263). If on the other hand, the *“needs”* of all parties were to be fully considered, these arrangements could become much stronger (ibid).

Apart from the fact that management prerogative is still strong in the UK, there is also the belief that employees have not yet been sufficiently stimulated to reap all the benefits from the ICE Regulations, especially in workplaces with “*low rates of representation*” (Charlwood and Terry, 2007: p. 325). Moreover, efforts by employers to establish consultation forums for the first time have been criticised for being incidences of “*pre-emptive action*” (ibid: p. 335) that may subsequently marginalise or undermine the influence of trade unions. In similar vein, Peccei et al. (2008) suggest that management is:

“...in a better position to decide whether to share information, irrespective of the presence or absence of either trade unions or joint consultation arrangements at the workplace. It may also be using direct participation allied to information-sharing as a way of pre-empting both joint consultation and trade unions...” (pp. 360-361).

Even in cases where true and authentic consultation exists, it appears that the issues of great importance for employees (especially distributive issues, such as: pay, terms and conditions) tend to be precluded from the agendas of JCCs (cited in Tailby et al, 2007: p. 221). It is also suggested that the perceived “*sincerity*” of management as taking into account employee views and suggestions and allowing them to have influence over management decision-making, is paramount in ensuring the effectiveness of information and consultation mechanisms (Cox et al, 2007: p. 32).

The vague reference in the ICE Directive that information and consultation forums can be generally made up of employee representatives, thus failing to mention, precisely, how trade union representatives can be elected and participate in these forums, has led to unions expressing the fear that the legislation could be used by management to try to undermine their influence. In this regard, this has led one academic to argue that trade unions are being “*written out of the script*” (Hall, 2006: p. 460) given the very nature of the minimal statutory provisions. On the other hand, the same author points out that they can still play a significant role, especially by actively participating in negotiating PEAs (ibid: pp. 460-461). Moreover, from the optimistic point of view, it is suggested that the ICE Regulations may enable union representatives (especially where minority membership exists) to exert stronger influence upon management decision-making and thus entrench their recognition in

the workplace. Furthermore, this may help them “*to gain a foothold in workplaces [where] they have previously found [it] difficult to organise*” (Kersley et al., 2006: p. 108). In addition, it is contended that the general statutory framework of the ICE Directive can potentially provide a better role to union representatives, as it will enable them to attain a greater involvement in “*longer-term decision-making*” (Ewing and Truter, 2005: p. 641).

From a negative perspective, it is argued that management may view any outside involvement suspiciously and therefore attempt to establish more broad forms of representation in order to weaken the union-based arrangements (Gollan, 2005; Hall 2006; Gollan and Wilkinson 2007). It is also suggested that the “*statutory regulation of employee consultation*” may weaken the “*single-channel of trade union representation*” (Tailby and Winchester, 2005: p. 447). Consequently, this may further differentiate the consultation process, distancing it from negotiation and collective bargaining (Geary and Roche, 2005; Sisson, 2002), as the foremost tends to be a broader process of employee voice, whilst the two lattermost strongly depend on unionised forms of representation. Furthermore from the pessimistic point of view, the ICE Regulations may give the opportunity to employers to develop arrangements that are aimed at forestalling the possibility of trade union recognition agreements (Ewing and Truter, 2005). In this regard, the fact that the legislation enables the establishment of non-union bodies of representation, whereas union recognition usually provides comprehensive collective consultation and negotiation rights, may motivate employers to establish broader forms of representation, rather than concede rights of “*unionisation*” and “*collectivism*” (Schomann, 2006: p. 20) and in such cases a consultation forum may be made to operate as a substitute of collective bargaining (Marchington 1989). Under these circumstances, managers may well take the view that trade unions are less likely to “*gain support and request recognition*” and management decision-making can take place “*without the presence of organised opposition*” (Torrington et al., 2005: p. 483).

Moreover, it is contended that the consultative forums, such as JCCs, are “*the most common form of representative voice*” in non-unionised workplaces (Kersley et al., 2006: p. 126) and it is also suggested that managers may be using the ICE Regulations to insulate further information and consultation mechanisms from negotiation and

collective bargaining procedures (Geary and Roche, 2005; Sisson, 2002). However, this does not mean that the aforementioned mechanisms cannot co-exist together and empirical evidence from the 1980s indicates that in heavily unionised workplaces JCCs tend to rely also on collective bargaining mechanisms. By contrast, it emerged that in workplaces with relatively weaker union influence, JCCs mainly operate as a communication mechanism (Daniel and Millward, 1983). Quite recently, there is also strong and consistent evidence that JCCs can operate and co-exist alongside union forums and consequently, rights of negotiation and collective bargaining can remain intact. In addition, it is argued that the statutory establishment of employee consultation can be “*beneficial to union activity*” (Heery et al., 2004; Kersley et al., 2006: p. 126). With respect to this, in unionised workplaces where a recognition agreement already exists it can enrich and “*deepen the agenda*” (Gollan and Wilkinson, 2007b: p. 1153). However, it is also suggested that employers may consider the ICE Regulations as a “*Trojan Horse*” and potentially a challenge to management prerogative (ibid: p. 1154). Nonetheless, according to Freeman and Medoff (1984), the interaction between employees and managers is considered to be the primary factor that affects the “*efficacy of voice*”, rather than simply the existence or not of trade union recognition agreement (cited in Sako, 1998: p. 12). In sum, Gospel and Willman (2005) provide a description of the potential outcomes for trade unions when they engage with the new regulations:

“At one end of the spectrum, where unions already have a high level of membership and bargaining coverage, they may eschew new arrangements but use the law to capitalise on what they already have, and expand the scope and level of consultation and bargaining. At the other end of the spectrum, where unions have no presence, [they] will have little choice but to accept what employers may put into place...” (p. 142).

2.3.6 Debate about the Implications of the ICE Regulations

Hall (2006: p. 456) describes the legislation as “*a significant change*” in the area of employment relations, whilst Blyton and Turnbull (2004: p. 266) anticipate that “*consultative arrangements*” are likely to be expanded further with the introduction of the ICE Regulations. Similarly, this development is considered to be a great opportunity and can potentially “*transform the UK industrial relations environment*”

(Gollan and Wilkinson 2007a: p. 1134). Moreover, the legislation may bring employee participation in Great Britain into a “*more regulated*” framework (Peccei et al., 2008: p. 362) and it is also argued that it can revitalise “*joint regulation*” in the UK, which has been constrained until now due to the “*voluntarist system and unsympathetic institutional framework*” (Gollan and Wilkinson, 2007b: p. 1154). Many researchers (Ewing and Truter, 2005; Hall, 2005; Lorber, 2003; McKay and Moore, 2004) anticipate that “*in the shadow of the law*” information-sharing would become more widespread and evident in large organisations (cited in Peccei et al., 2008: p. 346), whilst “*joint consultation*” is expected to have a stronger correlation with “*information disclosure*” (ibid: p. 348). Similarly, it is suggested that the legislation may force many organisations, especially smaller ones, formally to recognise consultation and employments rights for the first time (Wilkinson, 1999; quoted in Wilkinson et al., 2007: p. 1280).

One of the key issues raised by Bercusson (2002) is whether the development of this legislation can potentially bring UK practices closer to the European social model or whether British exceptionalism will continue. In this regard, Scott (2002) has expressed strong reservations and scepticism regarding the potential implications and beneficial changes brought about by the transposition of the ICE Directive into the UK Employment law. In the same vein, Truter (2003) has suggested that this legislation is not sufficient in itself to empower employee voice and cannot play “*...a pivotal role in the construction of a German-style social partnership model...*” (p. 28; quoted in Blyton and Turnbull, 2004: p. 268).

In general, the voluntarist context has led many academics to argue that the statutory legal framework in the UK, in relation to the provision of collective and individual employee rights, is much weaker compared to other EU countries (Sisson and Marginson, 2003; Hyman, 2003). It is additionally suggested that employee representation, which is based on information-sharing and consultation, is currently less widespread in the UK than in the more “*co-ordinated market economies*” of continental Europe (Waddington, 2001; cited in Marginson et al., 2004: p. 231). Similarly, before the transposition of the ICE Regulations, Sako (1998) posits that UK organisations are “*less prone to set up JCCs*” (p. 11) owing to the “*relative absence of legislation*” (p. 9).

A number of researchers have investigated the impact of the ICE Regulations in British workplaces to date, and further research is expected to take place so that a thorough and more detailed evaluation of the legislation can be made. In contrast to the earlier widespread highly positive expectations, the available evidence indicates that the ICE Regulations have not initiated a strong “*seismic shift*” (Cressey, 2009: p. 156) and the benefits and outcomes of these regulations are still very much “*open to debate*” (Gollan and Wilkinson, 2007b: p. 1157). It is also necessary to assess whether the legislation can attain its “*objectives*” through engagement in both indirect and direct methods of employee participation (Cox et al., 2007: p. 32).

According to Blyton and Turnbull (2004), “*the experience of EWCs is relevant*” in order to assess effectively whether the ICE Directive can “*contribute to fuller and more effective participation, rather than engender a minimalist response...*” (p. 267), whilst the outcomes may vary “*from substantial to negligible consultation*” (ibid). In this regard evidence provided by the experience from the implementation of the EWC Directive indicates that the outcomes of such EU regulations depend on various factors, such as the: nature of statutory provisions, context of industrial relations, management strategies and the attitudes of employees and trade unions (Hall and Marginson 2005; Ramsay, 1997).

According to Marchington (2005), employee involvement and participation practices tend to be “*diluted and managerially-motivated*” (p. 24) in the UK, but through the ICE Regulations they can still perform the role of:

“*...a new initiative by employers to seek co-operation from employees through various processes of information-sharing, consultation and financial involvement...*” (ibid).

Empirical evidence also shows that many companies use information and consultation mechanisms in order to promote their own partnership agreements, especially with the involvement of trade unions (Dundon et al., 2003). Thus, in line with the implementation of the EWC Directive in the UK, it is suggested that “*...trade union representatives will have better information about pay and conditions elsewhere, which will enable them to introduce meaningful comparisons into bargaining...*” (Marginson and Sisson, 1994: p. 45; quoted in Wills, 1999: p. 22). Moreover,

regarding the analysis of the experience from implementing the aforementioned EU Directive (such as: LRD, 1995; Hall et al., 1995), Cressey (1998) suggests that a pre-existing or pre-emptive agreement may generally provide the following advantages:

“...more flexibility, allowing for best suited arrangements to be agreed, and fitting with existing information and consultation arrangements...[it also] allows [employers] to negotiate with, and tailor arrangements regarding, workforce representation without statutory provisions applying...” (p. 69).

Nevertheless, pre-existing arrangements for EWCs are not fully enforceable nor are they “*protected*” by the law (Cressey, 1998: p. 70), and similarly there is no such enforcement within the context of the ICE Regulations (Gollan and Wilkinson, 2007b). If there is no consensus in the negotiations and failure to abide by the statutory requirements, disputes and complaints can be resolved through the Central Arbitration Committee (i.e. CAC). Nonetheless, Dietz and Fortin (2007: p. 1176) argue that the ICE Regulations, as adopted in the UK, do not provide sufficient enforcement and sanctions so that employers and employees will necessarily share “*a common position*” about the development of information and consultation arrangements. Furthermore, the “*reflexive*” (Barnard and Deakin, 2000: p. 341; quoted in Hall, 2006: p. 456) nature of the ICE Regulations is pointed out as one of its primary features. However, Lorber (2006: pp. 257-258) criticises the flexibility of the legislation which works “*at the expense of minimum rights*” and could result in weak forms of employee voice.

The transposition of the ICE Directive should force many UK companies to comply with the statutory requirements. Moreover, it is anticipated that organisations will comply in many different ways in relation to the statutory requirements. Key matters of interest regarding the outcomes of the ICE Regulations include the extent to which UK companies have changed or will change their employee voice mechanisms in the future. For instance, it may emerge that organisations are opting to follow the minimal statutory provisions or are implementing substantial changes in the consultation process, thus revealing extensive divergence across workplaces.

Likewise, it can be argued that the ICE Regulations now cover a wide range of organisations after the completion of the phased implementation in April 2008 and it is anticipated that several medium-sized and small organisations are likely to establish new employee voice arrangements (Hall et al., 2009). Other indicative issues that need to be addressed are: the extent to which the legislation is affecting and promoting the spread of information and consultation arrangements in both unionised and non-unionised workplaces, the nature, effectiveness and diversity of the mechanisms and adjustments being introduced, and the procedures that are being used to implement these adjustments and changes.

Commenting on the available empirical evidence, as provided by Hall (2006), the anticipated aftermath of the ICE Regulations can be described “*as something of a damp squib, with cautious management and uncertain union responses*” (cited in Cressey, 2009: p. 155). Extant case-study research indicates that the impact is not as strong as originally envisaged. More specifically, Cressey (2009) suggests that although the legislation has prompted and shaped the introduction of information and consultation arrangements in a number of organisations, the real influence of the legislation is limited and negligible. In particular, the management approach, in relation to the consultation process, has not significantly changed and employee involvement is not as active as it was originally expected to be (Hall 2005a; Hall et al., 2007; Hall et al., 2008). More specifically, Cressey (2009) refers to the case-study research that was made by Hall et al. (2007) and concludes that only in one instance was there actually a new agreement. He also adds that in eight out of the thirteen cases pre-existing arrangements were already in place, whilst in the remaining cases management took the initiative to introduce new arrangements “*on an informal basis*” (Cressey, 2009: p. 155). Furthermore, no instances of employees triggering vote procedures or making substantial use of statutory provisions were found. With regard to union representatives, they appear to have “*...some role but not a predominant one...they were not using the [ICE] Directive and its provisions to establish a ‘bridgehead’ for greater recognition and power in collective bargaining...*” (ibid: p. 156).

Overall, it is believed that the ICE Regulations have not brought “*widespread institutional innovation*” so far, which is primarily attributed to their “*perceived*

'minimalist' nature" (Carley and Hall, 2008: p. 29). In addition, according to the findings of WERS 2004, less than 20 per cent of workplaces currently use indirect forms of representation and further analysis indicates that there has been a decline in consultation mechanisms compared with the findings of WERS 1998, which subsequently led Charlwood and Terry (2007) to suggest that:

"...few, if any, employers had been stimulated by the imminent enactment of the Information and Consultation of Employees Regulations to take pre-emptive action by introducing representative consultation where none existed before. However, that does not mean that nothing is happening..." (p. 335).

By contrast, evidence from the IRS survey (2005) shows that consultation mechanisms have become more widespread, and this is predominantly attributed to the transposition of the ICE Directive. Another more recent survey, with regard to the employment practices in multinational companies, points out the impact of the ICE Regulations, emphasising the potential likelihood of stimulating dual channels of representation, resulting in separate forms with discrete consultation and negotiation rights:

"...37% of cases (42% of those reporting any consultative arrangement) had made changes to arrangements over the previous 3 years. In nine out of every cases, such change involved the establishment of new arrangements at all (three-quarters of the relevant total) or some (one-quarter) sites; in seven out of ten cases it involved modifications to existing arrangements..." (Edwards et al., 2007: p. 84).

"...the UK's recent ICE legislation appears to be having a discernible impact... these developments might also signal that amongst a key group of employers' consultation-based forms of representation are emerging as an alternative to traditional union-based arrangements focused on negotiation..." (ibid: p. 86).

Similarly, Carley and Hall (2008) suggest that the legislation has prompted the introduction of new consultation arrangements and modification of the current ones – *"particularly in the UK's operation of multinational companies"* (p. 29). Nevertheless, when providing a coherent and thorough description about the potential

impact of the ICE Regulations within the context of industrial relations in the European Union, Broughton (2005) notes that:

“While countries such as the UK and Ireland have needed to set out additional rights in new legislation, bringing their systems more into line with practice elsewhere in the EU, the countries that give employees enhanced rights to information, consultation – and in some cases, codetermination – will not alter their practice...” (p. 216).

“In conclusion, it is likely that the new information and consultation Directive will ensure a certain degree of harmony around the EU in terms of basic information and consultation provision. However, it is also likely that the existing variation in provision around the EU will remain in place to a large extent” (p. 217).

Originally, Hall (2006) provided interim findings about the initial impact of the ICE Regulations, in particular highlighting the pre-emptive approach of employers, the avoidance strategy by trade unions and the relatively scarce incidence of initiatives taken by employees:

“... the available evidence suggests considerable employer-led activity in terms of reviewing, modifying and introducing information and consultation arrangements but a relatively paucity of formal ‘pre-existing agreements’... This picture is consistent with a ‘risk assessment’ rather than a ‘compliance’ approach by management, facilitated by union ambivalence towards the legislation and low use of its provision by employees...” (p. 456).

Finally, as previously noted, consistent and coherent evidence about the impact of the ICE Regulations indicates that the implementation of this legislation could lead to notable modifications in the context of British employment relations, if their provisions are enforced effectively:

“... [information and consultation arrangements] are, in the main, not trivial; they are taken seriously by management and the employee representatives; they are becoming more accepted by trade unions on the ground; and are likely to evolve over time...there are lessons already for others who wish to develop employment relations in Britain

beyond unilateral management or traditional industrial relations...” (Hall et al. 2007, pp. 75-76).

2.3.7 Legislatively Prompted Voluntarism: A Potential Conceptual Framework for Understanding the Implications of the ICE Regulations?

The “*UK’s self exclusion*” (Gold and Hall, 1994: p. 177) from adopting EU directives and agreements, has contributed to the perpetuation of the non-regulatory tradition. This attitude principally prevailed in the past, because of strong political opposition to change by the Conservative government and has also continued, until recently, with the expressed reservation of the New Labour government. As a consequence, the features of light regulation have remained within the wider context of the British industrial relations system. More specifically, it is argued that the “*tradition of voluntarism*” was and still remains highly prevalent (Sisson and Marginson, 2003: p. 159). Similarly, Hardy and Adnett (2006) suggest that “*the British unitarist/voluntarist approach*” has not yet changed (p. 1028), whilst Doherty (2008) considers that any claims for the “*demise of voluntarism*” are “*overly simplistic*” (p. 610). Moreover, according to Marchington et al. (2004), voluntarism has been the key feature of the institutionalisation of British employment relations and stems back to the “*...Trade Disputes Act 1906, which provided the main principles of union law until the 1980s...*” (p. 45).

Voluntarism is still perceived as the “*prevailing philosophy*” and the “*best way to resolve problems*” (Marchington and Wilkinson, 2005: p. 49) within the context of British employment relations, which is further described as “*collective laissez-faire*” (Kahn-Freund, 1959; p. 224; cited in Blyton and Turnbull, 2004: p. 179). In detail, the primary characteristics of voluntarism in British industrial relations include: “*...1) non-legally binding collective agreements; 2) voluntary union recognition by employers; 3) a light, voluntary framework of state-provided supplementary dispute resolution facilities, with no governmental powers to order suspension of industrial action or impose ‘cooling-off’ periods...*” (Marchington et al., 2004: p. 45). As a consequence, information and consultation arrangements and other representation structures do not, on the whole, draw upon “*general, permanent and statutory provisions*” (Doherty, 2008: p. 613).

However, Sisson (2005) suggests that the strengths of the aforementioned features have started to weaken “...under the weight of the regulations [for] implementing EU directives...” (p. 55), but employee involvement is still “...pursued with a voluntarist tenor...” (Marchington et al., 2004: p. 54). Taking into consideration the impact and experience of “analogous UK legislation” (Hall, 2006: p. 457) that includes the statutory trade union recognition³¹ and the implementation of the EWC Directive in the UK, Hall and Terry (2004: p. 226) argue that the ICE Regulations could result in “legislatively-prompted voluntarism”³², which primarily involves the subsequent diffusion of “organisation-specific information and consultation arrangements” (Hall, 2006: p. 457) rather than the definite imposition of a standard model.

In other words, the implementation of the ICE Regulations may result in tailor-made and structured information and consultation arrangements, which are predominantly based on the temporary needs and objectives of organisations, albeit within a legislative framework (Gollan and Wilkinson, 2007a). Under such circumstances, employee involvement and participation mechanisms are developed through a “legislatively grounded prompting” (Doherty, 2008: p. 619) where “autonomous” information and consultation arrangements (ibid: p. 618) are likely to emerge. Moreover, it has been argued that such a framework allows for a flexible scope, with regard to the responses of: employers, employees and trade unions, and thus refutes the “one size fits all” approach (cited in Higgins and Croucher, 2008: p. 328; also quoted in Yeandle, 2005: p. 30; Hall, 2006).

In other words, in the UK context, it is contended that social partners and stakeholders (i.e. employers, employees and trade unions) are most likely to prefer the introduction and establishment of “voluntary agreements”, rather than having to be liable to the “statutory enforcement” of default legislative provisions and standard structures (Hall, 2003; cited in Tailby and Winchester, 2005: p. 447). This preference is similarly envisaged in a report published by ACAS (2004), which emphasises the flexibility of the legislation and anticipates the development of tailor-made employee

³¹ The statutory trade union recognition provisions of the Employment Relations Act 1999 (UK9903189F) were brought into effect by the Government on 6 June 2000.

³² Cited in several publications (e.g. Hall, 2005a: p. 5 and p. 16; Geary and Roche 2005: p. 192; Hall, 2006: p. 457; Hall et al., 2007: p. 7; Hall et al., 2008: p. 7; Hall et al., 2009a: p. 1; Hall et al., 2009b: p. 1; Butler 2009a: p. 199; Dundon and Wilkinson, 2009: p. 415).

voice arrangements based on “*particular circumstances*” (Tailby and Winchester, 2005: p. 444) or “*enterprise-specific rules*” (Keller, 2002: p. 442).

A thorough comprehension of voluntary information-sharing and consultation arrangements can provide a clear understanding of the implications of the ICE Regulations (Peccei et al., 2008). In this context, Hall (2006: p. 456) and Doherty (2008: p. 618) refer to the description given by Barnard and Deakin (2000) and suggest that the ICE Regulations are an example of legislation with a “*reflexive design*”, which allows for and prompts the establishment of organisation specific arrangements through “*autonomous processes of adjustment*”, rather than specifying “*particular distributive outcomes*” (Barnard and Deakin (2000: p. 341). This is similar to the official TUC perspective, which supports the view that “*...the impact of this new legislation may be largely reflexive...*” (Veale, 2005: p. 28).

However, given their negative perspective on voluntarism, Gollan and Wilkinson express scepticism about the implications of the ICE Regulations, suggesting that they can hardly “*...provide a platform for a fundamental change in employment relations...*” (2007a: p. 1138), and that the most feasible scenario seems to be the continuation of the “*... voluntarist tradition albeit within a statutory framework...*”, adding that the regulations may end up being “*another missed opportunity*” for sustaining and enhancing employee representation schemes (2007b: p. 1156). That is, under these lenses the legislation is seen as being a part of “*soft law mechanism of voluntary, non-binding social pacts*” (Doherty, 2008: p. 610). Moreover, Hall (2005b) suggests that the ICE Regulations will potentially stimulate:

“*...the spread of organisation-specific information and consultation arrangements, introduced voluntarily or as a consequence of the statutory trigger mechanism being used, and also that there may be relatively few cases where the statutory ‘default model’ provided by the standard information and consultation provisions is imposed on companies...*” (p. 122).

Finally, it is posited that the conceptual framework of legislatively-prompted voluntarism is characterised as an “*event driven disclosure model*”, where information and consultation arrangements are “*palliative*” rather than

“preventative” and based on specific employer-initiated events, such as collective redundancies and TUPE scenarios, with the consideration of employee rights being temporary and ad hoc (Gospel et al., 2003: p. 346; quoted in Doherty, 2008: p. 611). Consequently, consultation rights have no “*continuous impact on the employment relationship*” and the triggering mechanism does not rely on a “*bargaining-consultation agenda*” (Doherty, 2008: p. 611). In other words, under this circumstance the conceptual framework of legislatively-prompted voluntarism is in complete contrast to the “*agenda driven disclosure model*” (ibid). Furthermore, Dundon and Wilkinson (2009) suggest that within this contextual framework a diffusion of “*legally-prompted forms of employee participation*” (p. 415) is expected, whilst it is also anticipated that:

“...the law may encourage employers to be more creative by devising their own schemes for employee information and consultation, rather than rely on a legally imposed model of employee participation under the ICE Regulations...” (ibid).

2.3.8 ICE Regulations: An Opportunity for Unitarism or Pluralism?

Coupar and Stevens (2005) suggest that the ICE Regulations can further stimulate the “debate” with regard to “*unitarist versus pluralist*” models (p. 43), with these two models, in effect, encapsulating the different approaches regarding the management prerogative (Bacon, 2003). With respect to this, the principles of the pluralist model are founded on real debate amongst all social partners and stakeholders and the input of employees is considered substantial, as it accepts that their voice should be “*heard at their place of work*” (Coats, 2003: p. 3; quoted in Coupar and Stevens, 2005 p. 44). Pluralism is also viewed as inevitably engendering “*legitimate conflicts of interest*”, with the overall purpose being to protect the interests of all the parties concerned (Brown, 1988; cited in Blyton and Turnbull, 2004: p. 31). On the other hand, within the concept of unitarism, the “*common purpose*” (Fox, 1966: p. 2) is the success of the organisation, with all parties being perceived as sharing the same goal in the spirit of “*harmony and co-operation*” (quoted in Blyton and Turnbull, 2004: p. 31). In addition, Dundon et al. (2006: p. 498) use the description of Goodman et al. (1998) in order to suggest that within the perspective of unitarism “...*what is good for the business is assumed to be good for workers...*”. It also argued that through the lens of the unitary approach, the employers are using employee involvement mechanisms and

non-union representation as a means of “*incorporating or bypassing unions*”, which is referred to as the strategy of “*trade union avoidance*” (Taras and Kaufman, 2006; cited in Butler, 2009a: p. 201). More specifically, Marchington and Wilkinson (2005) provide a thorough description of the managerial strategies and approaches that can lie behind the aforementioned models or philosophies:

“...managers with a unitary perspective would trust employees to make the ‘correct’ decision, and since everyone supposedly has the same interests there should be no conflict between what is the best for the company and what is the best decision for employees. In contrast, the pluralist accepts the role of a union in the workplace and believes in a policy of gaining the support of unions and employees to achieve an ‘acceptable’ solution. Pluralists believe that shop stewards should be consulted about changes that may have a fundamental effect on employees...” (p. 269).

These models are also connected to the willingness of managers to share power (Blyton and Turnbull, 2004; Freeman and Rogers, 1999). With respect to this, Poole and Mansfield (1992) argue that unitarism is the preferred approach of managers to “*employee participation in decision-making*” (p. 207) and they also add that in these circumstances “*most employee involvement practices*” are supported by the managers under the assumption that “*these do not radically affect their control function within the firm*” (ibid).

Furthermore, Ackers and Payne (1998) take into consideration the voluntarist features of the British industrial relations system, describing the British HRM and employee involvement practices during the 1980s as “*crudely unitarist and managerial*” (p. 532) and compare them with the three distinctive “*definitions/interpretations of the pluralist tradition*” (p. 533). They also support the view that pluralism and social partnership can give an opportunity to trade unions “*to regain a central presence in the employment relationship*” (ibid: p. 532). However, even though it is evident that the EU Directive on information and consultation constitutes “*the completion of an old discredited pluralist agenda*”, its realisation now would appear to be “*watered down*” (Weinz, 2006; cited in Cressey, 2009: p. 158). Moreover, it is claimed that unless pluralist information and consultation arrangements evolve, the ICE

Regulations will achieve “*very little in terms of true consultation*” (Brewster et al., 2007b: p. 1152).

2.3.9 Information and Consultation Arrangements: A Low or High Road Approach?

Using the terminology of low and high road approach, Dundon et al. (2003: pp. 63-64) suggest that a high road strategy includes both direct and indirect forms of employee voice that may complement each other and result in substantial benefits, such as “*improved management decision-making*”, leading to a better climate of employee relations. This strategy encourages both information and consultation, and it may also help organisations to: enable broader forms of employee voice, contribute to “*employee cooperation*”, challenge management decision-making and “*shape the agenda*” of council meetings (Dundon et al., 2006: p. 508). In other words, the high-road approach is described as a mixture of tailored-made employee voice mechanisms based on a broad agenda of issues (Doherty, 2008).

On the other hand, a low road strategy can be adopted by management as one to secure a safe compliance with the minimal and standard statutory legal requirements. Furthermore, it is argued that this strategy may subsequently create pseudo-participation or partial-participation arrangements, which only provide employees with a limited scope of influence over decision-making. Under these circumstances, management prerogative remains relatively strong and arrangements may be simply described as processes of: “*information-passing*”, downward communication and “*pseudo-consultation*” (Dundon et al., 2006; quoted in Gollan and Wilkinson, 2007b: p. 1156). That is, such voice arrangements are used in order to inform employees about decisions that have already been taken and thus the simple aim is to “*legitimise*” the whole process (Torrington, 2005: p. 483). Similarly, Doherty (2008) suggests that the low road approach can in practice “*minimise employee input into decision-making and consolidate management control*” (p. 616). However, other authors contend that “*full participation*” may threaten managerial authority and control (Pateman, 1970, 1975 and 1983; quoted in Brannen, 1983: p. 151).

Turning to the matter of JCCs, these can be either an alternative body for collective bargaining purposes and hence, exert strong influence over management decisions or

they can just be part of the wider-company communication practices (Cressey et al., 1981; also cited in Brannen, 1983: p. 63). In addition, it is pointed out that managers have the option to operate these committees, either as an integrated process that involves both consultation and negotiation alongside collective bargaining, or they can employ separate arrangements regarding these (Bratton, 2007b). In British workplaces, JCCs are generally considered to be “*secondary to union membership*” and an alternative form of collective voice (Beaumont and Hunter, 2007: p. 1230). To sum up, it remains to be seen to what extent organisations will follow the low or high road approach, with regard to the establishment and review of information and consultation arrangements, as required by the statutory provisions of the legislation.

2.4 Synopsis and Summary

As it has been already argued, because of its flexible framework the ICE Directive cannot provide uniform enforcement with regard to the consultation mechanisms in the UK. In fact, in one interpretation of the WERS 2004 it is pointed out that:

“... consultation was occurring at a diminishing number of workplaces. Joint consultation remains a feature of collective bargaining, but has been contracting along with it, despite substantial recent legislative support...” (Brown and Nash, 2008: p. 102).

Similarly, Hall (2006) suggests that the anticipated “*...upturn in the proportion of workplaces covered by JCCs...*” (p. 462) has not emerged as expected. In particular, the decline of consultation is strongly evident in small organisations with less than 100 employees and this is especially the case where there is the absence of a trade union recognition agreement (cited in Kersley et al., 2006: pp. 126-127). On the other hand, there is recent evidence (CBI, 2006; IRS, 2005; LRD 2006; Edwards et al., 2007), which indicates that there is a gradual renaissance “*...in the incidence of formal [information and consultation] arrangements...*” (cited in Hall et al., 2007: p. 7) and other researchers argue that there is a slow and steady revitalisation of JCCs over the last few years (Brewster et al., 2007b). However, many academics have reservations about the implications of the ICE Directive (2002/14/EC), with regard to the extent to which it can revitalise the forms of employee consultation and Hall (2006) even goes so far as to describe its potential outcome as “*...something of a*

damp squib, with cautious management and uncertain union responses...” (Hall, 2006; quoted in Cressey, 2009: p. 155).

Nevertheless, the transposition of the ICE Directive into the UK’s domestic employment law is certainly an important development, because there was no such general framework of statutory provisions beforehand. This has led Bratton (2007b) to suggest that this legislation “...*is likely to provoke further interest and academic research, especially in member states without a strong EWC Tradition (e.g. Britain and Ireland)...*” (p. 462). Furthermore, through the implementation of the EWC and ICE Directives in the UK, “...*Labour governments have attempted to balance promotion of deregulated flexible labour markets with a more participative dimension for union inputs...and voluntary initiatives such as partnership...*” (Hyman and Summers, 2007: pp. 369-370).

It remains to be seen from the empirical evidence to what extent all parties (i.e. management, trade unions and individual employees) will be actively involved in the establishment or enforcement of information and consultation arrangements, because the legislation, by itself, does not carry the weight to bring about substantial changes. As has already been mentioned, other factors (i.e. regulatory framework, management and employee attitudes, trade union strategies, and economic/business pressures) can play an important and influential role (cited in Dundon et al., 2006: pp. 492-493). In addition, independent bodies, such as: the EAT, CAC and ACAS will also need to contribute towards the widespread effectiveness and enforcement of the legislation. However, the transposition and implementation of the EU directives with regard to employee participation cannot be considered as newly established developments, but rather they are the result of long-lasting debates at the European Community level, with their roots lying in the “*genesis of European Company Statute (1959-1970)*”, as described by Gold and Schwimbersky (2008: p. 48). The lack of unanimity between all member states of the EU (and especially the notable divergence of Anglo-Irish countries) has led Keller (2002) to argue that:

“... all closed concepts of homogeneity and coherence that had constituted the ideal of EU regulation in earlier stages of development proved to be impossible to materialise.

Step by step they had to be abandoned in the interest of reaching a final decision after more than three decades on non-decisions...” (p. 441).

Furthermore, in the past, the UK opted-out from the routes of convergence, in relation to the provisions of social policy and protocol, such as “*agreements through social dialogue*” between employers and unions (Gold, 1998: p. 107). In fact, until recently the UK has been very slow in adopting and implementing the necessary changes within its legislative framework to employee consultation rights, so that coherence and compliance with the EU directives can be achieved.

However, on the other hand, it is also questionable to what extent the ICE Regulations actually fit in with the current needs and conditions of organisations, because the basic provisions of consultation rights contained within the ICE Directive originate back to the EC debates of the 1960s and 1970s, and also rely on the Vredeling proposal that was devised under conditions of the 1980s (Blanpain et al., 1983; Docksey, 1986). In other words, as Keller and Sorries (1999) argue, the new statutory provisions may result in being “*nothing but old wine in new bottles*” (p. 124). In addition, taking into consideration the experience of previous and analogous EU legislation, such as the EWC Directive, Cressey (1993: p. 101) suggests that such participation provisions are very unlikely to challenge “*management prerogative*”. Nowadays, employee involvement practices tend to be unitarist and voluntarist rather than pluralist, with the agenda regarding employment issues being strongly led by management. Consequently, the ICE Regulations may predominantly provide the opportunity for management to establish employer-dominated arrangements, rather than promote: industrial democracy, social dialogue and employee participation. In other words, within the context of EU industrial relations, the ICE Directive will in reality constitute just the completion of an “*old discredited pluralist agenda*” (Cressey, 2009: p. 158).

Available research, so far, indicates that activity and responses to the transposition of the ICE Directive are mainly led by employers and management. Moreover, the extant empirical evidence indicates that the active involvement of individual employees and trade unions is relatively limited (Hall, 2006; Hall et al., 2007; Hall et al., 2008; Hall et al., 2009). It is also evident that “*voluntary participation arrangements*” are

dominant in the British institutionalisation of employment relations, which consequently makes “*worker access to participation highly unequal*” (Streeck, 1997: p. 11). Hopefully, these inequalities can be eliminated, or at least lessened, through the transposition and implementation of EU directives on employee participation, such as the ICE Regulations. In this regard, Broughton (2005) provides a short overview about the potential outcomes of the ICE Directive by arguing that it:

“...will ensure a certain degree of harmony around the EU in terms of basic information and consultation provision. However, it is also likely that the existing variation in provision around the EU will remain in place to a large extent...” (p. 217).

Strong reservations are expressed about the effectiveness of imposing such EU directives, since “*national peculiarities and idiosyncrasies*” are still prevalent, and subsequently “*genuine Europeanisation*” can hardly be sustained within the “*complex ‘multi level’ framework of [the] EU regulations*” (Keller, 2002: p. 441). Moreover, the spirit of reluctance to engage in such matters is still evident and this is highlighted by the UK’s opt-out from the Charter of Fundamental Rights³³ in summer 2007, which subsequently suggests deviation away from the concept of a European social dimension³⁴.

Using the arguments of Gold (1998) in relation to the potential impact of the EWC Directive, the general framework for informing and consulting employees cannot bring a:

“...sudden breakthrough into European-collective bargaining like a kind of industrial relations ‘big bang’. It is more likely that information disclosure, consultation and negotiation will evolve in an opportunistic way...” (p. 130).

In addition, the ICE Regulations do not provide rights of co-determination to British employees that in other countries are already strongly upheld and adhered to in their employment statutory and legislative frameworks (Broughton, 2005). But on the other

³³ Charter of Fundamental Rights of the European Union (2007/C 303/01), “Notices from European Union Institutions and Bodies”, *Official Journal of the European Union*, (European Parliament, Council and Commission), 14th December 2007.

³⁴ Further details are provided on the website of the Federation of European Employers: (<http://www.fedee.com/histsoc.html>).

hand, the institutional conditions in the UK (Casey and Gold, 2005), particularly in relation to the legal and political system, are hopefully now more favourable towards the transposition and implementation of EU directives on employee participation. Consequently, the implementation of the ICE Directive can only set a “*threshold level*” of information-disclosure and consultation in the workplaces (Peccei et al., 2008: p. 362) for the lower-levels of employee representation, whilst the ECS model is relevant to the “*higher level representation*” that can substantially challenge the “*strategic decision-making*” (Cressey, 2009: p. 140).

From a theoretical point of view, the ICE Regulations can be a “*catapult for change*” (Gollan and Wilkinson, 2007a: p. 1138), with the statutory provisions shaping employee participation arrangements in British workplaces. However, the overall effectiveness of these mechanisms is reliant upon the extent to which the interests of all partners are fully considered (Marsden, 2007). Initiatives based primarily on managerial control and a unitarist perspective may subsequently result in “*weak employer-dominated partnerships*” (Gollan and Wilkinson, 2007b: p. 1152) rather than “*robust union-management partnerships*” or “*robust non-union consultative regimes*” (Ackers et al., 2005; cited in Dundon et al., 2006: p. 497). The results of relatively early empirical studies about the ICE Regulations indicate that they are not bringing substantial changes in those workplaces where trade union recognition agreements already pre-exist (Hall et al., 2007, 2008 and 2009). This would appear to be the case, because usually unionised employees can voice their views through structured mechanisms of representation and the extant formal agreements can already secure the provision of consultation and negotiation rights that are considered by union representatives to be superior, when compared with the statutory provisions of legislation. However, the provisions are proving useful in those cases where unions have not yet been able to get formal recognition agreements, because they at least allow the unionised employees to endorse the request for new or reviewed information and consultation arrangements and thus be actively involved in the development of union-based or hybrid forms of representation. In other words, the new provisions, on occasion, are emerging as being highly beneficial in workplaces where minority union-membership exists. Overall, the legislation appears to present challenges and opportunities and this is particularly so in the non-unionised sector, where there are less structured forms of employee representation or the complete

absence of consultative bodies (Charlwood and Terry, 2007; Gollan and Wilkinson, 2007a).

It remains to be seen the extent to which both partners at workplaces will become involved and if this is substantial then pluralist forms of consultation arrangements may well emerge. In particular, given the fact that compliance with the statutory requirements is necessary for most organisations, it is still unclear how the partners will work to resolve differences in future. If this does not happen, then the statutory provisions will be subject to unitarist and managerial manipulation that will provide the opportunity to employers to comply safely and minimally with the legislative requirements, without the establishment of coherent and effective forms of consultation. In sum, depending on the circumstances, the ICE Regulations can be either seen as a pointless EU Directive on employee participation or a good opportunity to promote industrial democracy in the workplace, through newly sustainable forms of employee voice and participation.

2.5 Outline of Research Focus

Empirical research will provide evidence of whether, and to what extent, all parties and social actors are making the best use of the EU Directive on employee consultation (2002/14/EC), and consequently, whether the statutory provisions on information-disclosure and consultation have the potential to change the voluntarist and non-regulatory context of British industrial relations. In other words, it remains to be seen to what extent the ICE Regulations will change the context of industrial relations and how far the employee participation provisions contained within the legislation will bring UK practices in this regard closer to those of other EU countries. In addition, the ICE Regulations prompt the need to address a series of questions/themes so as to assess their overall potentiality for leading to the establishment of more coherent forms of employee voice and representation in the UK. In particular, these include: eliciting the extent to which organisations have adjusted their own information and consultation arrangements or tailored their constitution agreements, investigating what sort of strategies have been adopted and seeking the views expressed by: management, trade unions and individual employees, in relation to such arrangements. Furthermore, the potential of the legislation to act as

an enforcement measure, thereby strengthening further the: information-sharing, communication and consultation arrangements in UK workplaces, needs to be evaluated. In other words, a pressing research need is to assess the extent to which the legislation can assist towards the establishment of more “*comprehensive employee representation structures*” (Dickens and Hall, 2003: p. 143; cited in Marchington and Wilkinson, 2005a: p. 292). Moreover, it would be helpful to ascertain the degree to which the ICE Regulations are providing the opportunity to employees to have a greater influence over management decision-making and thus enhance their own level of control.

In addition, it is appropriate to explore whether under the new provisions the role of employee and union representatives can become stronger and therefore be more influential in management decision-making, thereby shifting the environment to one that is pluralist rather than unitarist. In similar vein, another emerging issue from the above review of the literature is the need to assess to what extent the ICE Regulations can actually provide the opportunity for promoting industrial democracy and assisting social dialogue in the workplace and thus result in a framework of employment relations in Great Britain that is closer to concept of the European social model (Bercusson, 2002). A number of academics have registered their strong scepticism towards the ICE Directive, with one suggesting that it will simply end up to be an unnecessary EU law on employee participation (Sisson, 2002). In particular, the fear is that a minimalist response will be espoused by organisations “*in which a compliance attitude is adopted and managers do little more than tick the required boxes*” (Dundon et al. 2006; cited in Dundon and Wilkinson, 2009: p. 415). Moreover, other proponents of this perspective argue that the statutory framework may actually provide further impetus for management to impose unitarist arrangements, and consequently, act as a stimulus for “*continued British exceptionalism*” (Bercusson, 2002; cited in Hall, 2005a: p. 18).

Whatever the outcome of the transposition of the ICE Directive, it will no doubt provide much discourse in relation to its impact on UK industrial relations. In this regard, the debate around the European social dimension (Threlfall, 2007) or alternatively the notion of “*social Europe*” (Milner, 2005: p. 105), has already been stimulated by the implementation of the ICE Regulations amongst the social partners

in the UK and across academia. These debates are concerned with the extent to which this legislation can be an impetus for substantial changes or another missed opportunity for nurturing collectivism, partnership and democratisation in UK workplaces. Moreover, as noted in section 2.3.7, many academics (e.g. Gollan and Wilkinson 2007; Doherty, 2008; Dundon and Wilkinson, 2009) appear to concur with the view of Hall and Terry (2004) and Hall (2006) that notably portrays the most feasible outcome of the ICE Regulations as being the diffusion of: organisation-specific, autonomous and tailor-made information and consultation arrangements, which can be described as the development of “*legally-prompted forms of employee participation*” (quoted in Dundon and Wilkinson, 2009: p. 415). Consequently, there needs to be in-depth investigation in order to test the validity of these anticipated outcomes. All the aforementioned identified themes and research objectives can be addressed through the conduct of surveys and case-study research, which is the methodology chosen for the purposes of this research endeavour.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This research project primarily relies on the principles of an inductive approach, since the main purpose is to identify the “*patterns*” (Maylor and Blackmon, 2005: p. 152) and themes that emerge from the implementation of the ICE Regulations, as already addressed in chapter 1. The most appropriate research approach to achieve this is deemed to be qualitative, employing: case-studies, interviews, partial engagement in participant observation, and collection of documentation and other relevant data. Notwithstanding its limitations, the case-study approach does allow for an in-depth exploration of the main research objectives and questions that can subsequently lead to the genesis and development of theory. The main justification for the conducting of interviews is because the aim is to explore, within the context of social partnership in the workplace, the specific aspects and mechanisms of change in relation to the information and consultation arrangements. In particular, the perceptions of: managers, trade unions and employees regarding existing employee voice mechanisms are sought for each of the case-study organisation, as well as their views on the potential implications from using these arrangements.

Overall, the research objective is not just to make comparisons between the case-studies, but rather to provide an analysis about the meanings and outcomes expected from the new arrangements across the selected sample and within the wider context of employment relations in Britain. Creswell (1994: p. 61) describes the case-study as “...*a single, bounded entity, studied in detail, with a variety of methods, over an extended period...*” (cited in Maylor and Blackmon, 2005: p. 243). Therefore, the thesis follows the case-study methodology for both practical and theoretical reasons, because they are particularly useful when limited prior evidence regarding the matter under investigation is available.

3.2 Using a Qualitative Framework

In general, the qualitative paradigm is considered as the most appropriate methodological approach when the research objective is to “*understand the meaning and complexity of issues rather than measuring predetermined variables*” (Denzin and Lincoln, 1994; cited in Terzi, 2002: p. 88). Similarly, Hussey and Hussey (1997: p. 12) argue that qualitative research is “*more subjective in nature*” and focuses on “*perceptions in order to gain an understanding of social and human activities*”, in contrast with quantitative research that is “*objective in nature and concentrates on measuring phenomena*”. More specifically, from a sociological point of view, qualitative methods are important because research in the field of employment relations deals not only with organisations but also with the people in them. In particular, “*people can ascribe meanings, thoughts and feelings to the situation in which they find themselves*” (Maylor and Blackmon, 2005: p. 220), and therefore, a qualitative research methodology is multidimensional and “*has the potential to be far more personal*” (p. 221).

In sum, rather than “*providing statistically representative data*”, qualitative research focuses on the “*exploration of processes and experiences; knowledge for understanding*” (Scott and Shore, 1979; cited in Dix and Oxenbridge, 2003: p. 78). Organisations are social systems, within which the setting for social behaviour can be identified and because it is people that construct and maintain social systems, research on them is different to that regarding physical objects and systems based in the natural sciences.

3.3 Epistemological Assumptions

The term “*paradigm*” is defined as the “*...progress of scientific practice based on people’s philosophies and assumptions about the world and the nature of knowledge...*”, and subsequently, the way that “*research should be conducted*” (Hussey and Hussey, 1997: p. 47). In general, paradigms are “*...universally recognised scientific achievements that for a time provide model problems and solutions to a community of practitioners...*” (Kuhn, 1962: p. viii), whilst Hussey and Hussey (1997: p. 47) suggest that paradigms also signify a specific context of “*accepted sets of theories, methods and ways of defining data*”. More specifically, it

is argued that “*epistemology is concerned with the study of knowledge and what it is accepted as a valid knowledge*” (Hussey and Hussey, 1997: p. 49). On the one hand, “*positivists believe that only phenomena which are observable and measurable can be validly regarded as knowledge*”, and they “*try to maintain an independent and objective stance*” (ibid). On the other hand, “*phenomenologists attempt to minimise the distance between the researcher and that which is being researched*”, and they “*may be involved in different forms of participative enquiry*” (ibid). The divergence between the two approaches is highlighted by Smith (1983: p. 10), who argues that “*...in quantitative research facts act to constrain our beliefs, while in interpretive research beliefs determine what should count as facts...*” (cited in Hussey and Hussey, 1997: p. 49).

Case-study research relies on a specific epistemological position. In this regard, rather than establishing an objective reality, independent of beliefs and values, the research purpose is to highlight people’s perceptions and subjective interpretations within the sphere of employee relations that actually emerge, and in this particular research endeavour in relation to the implementation of a specific piece of employment legislation. Therefore, the study and its analysis are essentially based on an interpretivist position and people are not seen as passive agents, but are actively engaged in interpreting and constructing their beliefs (Terzi, 2002). From the “*ontological*” point of view and for the purposes of the research, it is accepted that the world is “*socially constructed and understood by examining the perceptions of the human actors*” rather than just being “*objective and external to the researchers*” (Hussey and Hussey, 1997: p. 49).

Within the context of the research project, the human actors are actually the social partners, stakeholders and social actors (such as: managers, employees, trade unions, agencies of enforcement including the EAT, ACAS, CAC etc) that are actively involved in the development of information and consultation arrangements. In other words, the research about the implications of the ICE Regulations within the contextual framework of British industrial relations is purely qualitative and, therefore, it comes closer to hermeneutics and interpretivism rather than positivism. As Von Wright (1993) argues, hermeneutics is based on the interpretative and

subjective understanding of issues and themes, whilst positivism favours the scientific method, which stresses the need to “*seek universal laws that explain observable phenomena*” (cited in Terzi, 2002: p. 128). Furthermore, according to Taylor and Bogdan (1984), qualitative research is connected with interpretive inquiry and assumes that the development of knowledge is situated within a certain contextual framework. This type of research is usually dependent on the researcher’s skills in eliciting peoples’ perceptions on issues and subsequently identifying effectively the main emerging themes and issues.

3.4 Selection of Case-Study Organisations for the Purposes of the Research

The case-study approach is well suited to new research areas or when the existing literature is limited and the impact of the ICE Regulations in the context of UK employment relations exemplifies such conditions. Moreover, a case-study approach embodies “*...an empirical investigation of a particular contemporary phenomenon within its real life context using multiple sources of evidence...*” (Robson, 1993: p. 5). In other words, a case-study entails research that focuses on understanding the current parameters and dynamics of a specific setting (Eisenhardt, 1989). Furthermore, Yin (1994) suggests that each selected case-study should contribute towards to the development of a whole study that can provide consistent outcomes regarding the research questions and themes, within a set of internal and external conditions. In addition, Terzi (2002: p. 90) argues that:

“...through carefully selected cases and the theoretical framework; the researcher attempts to understand, to the fullest extent, whether different conditions will produce different case results and to articulate these conditions more explicitly...”.

According to Hartley (1994), case-study methodology is appropriate when exploring social processes and their subsequent development as they evolve within the organisations. In addition, this methodology is useful when the intention is not just the study of a simple typicality or issue, but also the investigation of certain organisational idiosyncrasies, such as: employee voice arrangements. Additionally, case-studies can provide in-depth understanding (Geertz, 1973), “*rich descriptions*”

and “*a foundation for theory development*” (Van Maanen, 1979; cited in Terzi, 2002: pp. 90-91).

The case-study approach is often considered when ‘why’ and ‘how’ questions are posed and, consequently, it can allow for the addressing of either exploratory and descriptive or analytic research questions. That is, the specific treatment can: explain, describe, illustrate, highlight, explore or evaluate the social phenomena under investigation (Yin, 1994). In particular, the aim of this research project is to explore ‘why’ and ‘how’ the organisations have responded to the transposition of the ICE Directive and its implementation. Moreover, there is the goal of eliciting whether the outcomes from introducing a change in the existing information and consultation arrangements or the development of newly-established ones are consistent with management objectives. To achieve these ends it is necessary to investigate concepts that are interrelated, thus the research challenge is of an exploratory nature. In sum, the main purpose of case-studies is not just to depict the frequency and occurrence of a specific phenomenon, but rather to highlight occasions of theoretical and practical importance (Yin, 1994).

Furthermore, Maylor and Blackmon (2005) suggest that a multiple case-study approach is useful, as it allows for the identification of those features that are unique to each case and those that are common across all cases. This approach can provide a significant advantage over the single case-study design, especially when theory is to be built and tested by looking for various patterns across the selected sample. Moreover, these particular authors argue that there are two ways in which to choose the research cases for comparison:

“...one is to choose either an extreme situation...or a set of cases that varies widely on one or more aspects...the second way to choose...is to take a replication approach – choose a set of cases that are similar to each other and look for differences and what causes those differences...” (ibid: p. 249).

Hall (2004) and Dundon et al. (2003), who followed a case-study approach in order to assess the impact of the ICE Directive, chose the second way and identified factors

across organisations that they wanted to compare in the area of UK industrial relations³⁵.

In this research endeavour although the all four case-studies represent a variety of different circumstances and situations, the analysis after selection is similar to that of Hall (2004) and Dundon et al. (2003), being based on specific parameters which are: (a) existence or not of a trade union recognition agreement; (b) long-established or recently introduced information and consultation arrangements; (c) diverse forms of representation structure – such as: separate or combined arrangements for collective bargaining, negotiation and consultation (especially where there is a trade union recognition agreement); (d) size of the company; and (e) various sectors of economic activity.

The case-studies and sites were identified through the conducting of a survey. More specifically, 74 respondents (i.e. nearly a 15 per cent response rate of those contacted), most of whom were HR managers/directors, provided a comprehensive insight and overview with regard to the initial responses of organisations resulting from the implementation of the ICE Regulations. The survey was conducted with the collaboration of ACAS from December 2005 to January 2006, with questionnaires being sent to 500 organisations included in the first threshold, as denoted by the initial stage of the phased implementation of the legislation³⁶. The main themes of the questions for the postal survey were: the current awareness of respondents concerning the ICE Regulations, the current practices concerning direct and indirect forms of employee involvement, the content of information-sharing and consultation, and the organisations' actions in relation to the implementation of the legislation. Finally, the respondents were asked to indicate whether they would like to participate as a case-study organisation in the main research project.

³⁵ For instance, according to Dundon et al. (2003), such factors include: (1) size; (2) structure (single or multi-site organisations); (3) systems of corporate governance (British or foreign-owned, public and private); (4) union and non-union organisations; (5) types of arrangements for collective bargaining and consultation; (6) geographical spread across the UK; (7) single or multi-tier consultation arrangements; (8) long-established or recently-introduced information and consultation arrangements; (9) separate/combined arrangements for collective bargaining and consultation; (10) universal or union-based election of representatives; (11) occupational classifications; (12) different sectors of economic activity (e.g. retail outlets, hi-tech, manufacturing, financial services, public sector etc).

³⁶ Further details about the questionnaire are included in the appendices and notes, whilst analysis of findings is presented in chapter 4.

Ten organisations volunteered to participate in the research as case-studies and four were finally chosen with the aim being to provide a comprehensive picture with regard to the research objectives that could not have been obtained just by conducting the survey. The other six volunteer sites were subsequently excluded, two of them after a limited number of interviews had been conducted, as is discussed below, and regarding the rest of the cases access was not finally forthcoming after the initial positive responses. On reflection, after looking at the four chosen cases in some detail, the primary criteria selected for comparison between the cases were (a), (b) and (c), as illustrated above, because they provided rich data both within and across organisations. For example, in case-study one, taking into consideration the criterion (b), pre-existing arrangements already existed and only a review of the constitution took place at the Felixstowe site (in March 2005), without any changes being implemented. Whereas when this issue is taken in conjunction with criterion (c), consultation arrangements co-existed along with a union-based negotiation forum and a collective bargaining agreement. In addition, this organisation operates in the manufacturing sector, comprising two undertakings/sites and is a part of a French multinational company. More specifically, the consultation arrangements and levels of union membership amongst employees differ considerably between the two sites. In particular, at the Manchester site, there is only a union-based consultation and negotiation body and no representation structure for the non-unionised employees. This complex situation, with regard to this case-study organisation, gives an example of the appropriateness of the selected criteria.

Similarly, the second case-study provides another example exhibiting diverse arrangements within the same organisation, which also centres on criterion (a). It is a British retail organisation that used to be in the public sector until the end of 2004. At the head office at that time there was no trade union recognition agreement and consultation arrangements were set up (in January 2005) due to the implementation of the ICE Regulations. At the depot sites, the pre-existing trade union recognition agreements with three separate sections of the workforce along with the existence of two JCCs have remained the same.

Case-study three exemplifies a non-unionised organisation in the retail sector, where formal information and consultation arrangements were already pre-existent and no

changes or adjustments were deemed necessary. In further detail, it is a British owned organisation, with a central head office responsible for several stores. Only managers and employees from the Yeovil store were interviewed, but nevertheless employee voice arrangements are similar for all parts of the organisation. Case-study four provides a notable example of a relatively recently established consultation forum (September 2006) in a non-unionised organisation belonging to the retail/wholesale sector. An additional parameter, in this case, is the separate development of a Constitution Agreement (August 2007) in a recently acquired warehouse, where no formal trade union agreement existed previously and the proportion of union membership was rather small. In sum, all of the case-studies provided examples of multi-tier consultation arrangements within different sets of variables and parameters; table 3.1 contains a brief outline of the key features of each of the selected cases. As a consequence of the diverse arrangements found across the selected sample, this researcher would contend that the data collected from the case-studies covers a significant range of the evidence to be found in different UK workplaces. In other words, for this particular research endeavour, the aforementioned four case-studies were deemed by this researcher to give comprehensive insights that subsequently would enable a consistent addressing of the main themes and objectives of the research project.

Stebbins (1992) suggests that the interconnecting chain of multiple qualitative case-studies improves the “*validity*” of empirical findings, because cross-case comparisons in order to elicit any common features can be made and this allows for the researcher to gain in-depth knowledge and understanding of the research themes as the empirical fieldwork further develops (cited in Hussey and Hussey, 1997: p. 63). Moreover, the use of this multiple sampling technique allows for a deeper probing of respondent experiences, thus allowing for contextual understanding as to ‘why’ things are as they are in each organisation. Furthermore, although a general survey, such as the one carried out for a sample of organisations across the UK, can provide useful insights into the field of research objectives, its outcomes cannot probe to a sufficient depth or elicit a comprehensive understanding of the implications of the ICE Directive. Thus, the multiple case-study approach is engaged so as to achieve this goal. In particular, the purpose is to acquire rich data in relation to: different sectors of economics activity, levels of unionisation and non-unionisation, the size, the current

arrangements of information and consultation, the existing collective bargaining structures, and the operation of the newly-established arrangements in UK workplaces. In-depth analysis is considered also important, because these contextual factors and parameters have proved to be the key features in previous research (Cully et al., 1999).

	Workplace	Number of Employees (approximately)	Sector	Union Recognition Agreement	Trade Union Membership	Information & Consultation Arrangements
Case-Study 1	Felixstowe site	250	Manufacturing of electricity meters	Yes (agreement with Unite, i.e. former recognition agreement with AMICUS and the TGWU)	51%-70% (only for production and direct workers)	1) Pre-existing Information and Consultation Council and Review of the Constitution Agreement in March 2005 (coverage for all employees). 2) Separate union-based negotiation body (for production and direct workers)
	Manchester site	180	Manufacturing of gas meters	Yes (agreement with the GMB)	91%-100% (only for production and direct workers)	1) Non-compliance with the ICE Regulations. 2) No arrangements for the non-unionised employees (indirect workers). 3) Union-based consultation and negotiation body for production and direct workers
Case-Study 2	Head office in Somerset	1000	Central administration	No	N/A	Setting up of Information and Consultation Council in January 2005
	Depot sites in Bridgwater	550	Warehousing, retailing and distribution	Yes (three separate agreements with USDAW and the TGWU for different sections of workforce)	51%-70% (coverage for all the employees)	1) Two JCCs (pre-existing arrangements already in place). 2) Three separate union-based consultation and negotiation bodies
Case-Study 3	Yeovil store	300	Retailing, fashion and home-ware	No	N/A	Pre-existing Information and Consultation Council
Case-Study 4	Head office in Warrington	600	Warehousing, wholesale and distribution	No	Only at the Bolton warehouse: (approximately 10% membership of UNISON and Unite)	1) Setting up of Information and Consultation Forum/Council in September 2006. 2) Setting up of a separate Information and Consultation Forum at the Bolton warehouse in August 2007

Table 3.1: Key Features in the Selection of Case-Studies.

In accordance with a longitudinal approach, the conducting of the main empirical fieldwork (i.e. visits, interviews, non-participant observation of council meetings, collection of the relevant documentary evidence, and also collection of constitution agreements and minutes from meetings etc) started in March 2006 and was completed in December 2006. After this period, contact was maintained with the HR managers until January 2008 (through a phone or e-mail contact) for the collection of further data or documentary evidence. As Hussey and Hussey (1997: p. 63) argue, “...*a distinctive feature of this approach is that there is a chain of studies. Each link in the chain is an examination or re-examination of a related group or social process...*”.

3.5 Limitations of the Case-Study Research

The main limitation of using this research method is the fact that it only provides minimal data on certain important aspects of the effects of the ICE Regulations. In this regard, on matters connected with employee attitudes, such as: organisational commitment organisational behaviour, labour turnover and absenteeism, a much larger data set is required, if meaningful outcomes are to be identified. Moreover, it is difficult to explore the implications of the newly established information and consultation arrangements in terms of organisational effectiveness (such as: performance, productivity etc), as this requires a longer time frame in conjunction with quantitative analysis (Peccei et al., 2007; Cox et al., 2007). In sum, a longer research period in conjunction with a greater number of in depth case-studies would help to close the knowledge ‘gap’ in relation to the nature of the link between information and consultation, and other dimensions of organisational efficacy. As already suggested, the expected ‘lag effect’ between policy initiatives and outcome effects can be as much as three years (Hope-Hailey et al., 2005).

Overall, the thesis addresses the first stage of the phased implementation of the ICE Directive, but the subsequent reduction of thresholds to 100 employees (on 6th April 2007) and then to 50 employees (on 6th April 2008) are outside the scope of this research in terms of its timeframe. Nevertheless, it is anticipated that the evidence from the four case-studies, in conjunction with the survey and other collected data, will allow for the identification of the main themes that are emerging through the implementation of the ICE Regulations. In other words, the research outcomes are

expected to make a contribution towards recognising the general trends, outcomes and future developments in relation to this legislation.

3.6 Interviewing and Non-Participant Observation for the Purposes of the Research

Interviewing is a method of collecting data in which selected participants are asked questions in order to find out what they do, think or feel, which can help the researcher to classify and organise an individual's perception of reality. Of particular relevance to this research which involves conducting case-study, interviews are one of the most important sources of information (Yin, 1994; Berg, 1989) and interview types are typically classified as: structured, semi-structured or unstructured. A semi-structured interview refers to one that includes predetermined questions and topic areas, where questions are asked of each participant in a systematic and consistent order, but with some freedom for the interviewer to digress and probe, depending on the situation and the flow of the conversation (Berg, 1989). This type of interview is most valuable when the fieldworker is attempting to understand the principal variables and parameters of a specific organisation, from the insider's perspective. More specifically, *"...at this point, questions are more likely to conform to the 'native's perception of reality' than to the researcher's..."* (Fetterman, 1998: p. 38). Within a qualitative methodology, interviews are usually semi-standardised and open (Sarantakos, 1998: p. 247). Furthermore, the embodied flexibility in the semi-structured interview allows for further insights that otherwise may be constrained if there is a set format of structured questions that must be adhered to.

Notwithstanding its positive aspects, the interviewing technique can be limited for a number of reasons. For instance, it is time consuming compared to other methods, such as questionnaires, and it is strongly prone to the possible bias of the interviewer. Apart from these limitations, the interviewing method can also be affected by factors common to other data collection techniques, such as: possible misrepresentation or misinterpretation of facts, genuine mistakes, unwillingness or inability to offer information and limited access. However, it is easier to *"detect problems when interviewing than when using other methods"* (Sarantakos, 1998: p. 267), because the interviewee as an active participant provides instant feedback and knowledge that can

be adapted during the interview itself and also exported to subsequent interviews (Silverman, 2001), a feature that is not available through carrying out surveys. In order to activate this mechanism during the interview stage, it is important that an atmosphere of trust and friendship is developed between the interviewer and the respondent (Lamnek, 1988).

For the purposes of this research project, structured interviews were considered to be unsuitable, because little was known about the participants' experiences prior to the meeting and thus semi-structured interviews were chosen as the most appropriate data gathering technique. This is further justified by the fact that the research goal was to collect information regarding the interviewees' personal beliefs and perceptions, considered opinions and insights in relation to the information and consultation arrangements in the workplaces, all of which would be difficult to obtain through structured interviews, because rigid questioning would restrict the available opportunities or options to elicit richer in-depth understanding of these matters. That is, semi-structured interviews can fulfil the exploratory purpose of understanding how people perceive and feel about the research topics (Oppenheim, 1992); in this particular instance the views of managers and employees are of interest. Moreover, as Oppenheim (1992: p. 67) argues, "*...the purpose of exploratory interview is essentially heuristic: ... to develop ideas and research hypotheses rather than to gather facts and statistics...*" and interviews are required when researchers aim to understand respondents' perceptions or how they have come to attach such meanings to phenomena (Berg, 1989). In particular, with reference to the research questions and objectives, the interviews were aimed at attaining understanding of how the information and consultation arrangements are being perceived in relation to the implementation of the ICE Regulations.

As previously noted, through the conducting of the survey ten respondents agreed to participate as case-study organisations in the research and provided their contact details. After formal consent by the HR managers, visits were conducted in the four selected case-study organisations and different numbers of interviews took place for each, depending on the availability and the extent to which access was granted. All interviews were one-to-one and face to face, apart from two that were conducted through questionnaires sent by post and e-mail (in case-studies one and two), while in

one instance there was an additional phone interview with the HR manager (in case-study four). Furthermore, contact was maintained with the HR managers through e-mails and phone calls until January 2008, with the purpose of collecting further data and documentary evidence as deemed necessary (such as: constitution agreements and minutes from the council meetings). The format and context of the semi-structured interviews are included in the appendices and notes.

In total, twenty-eight interviews were carried out, including those with: one senior HR manager (i.e. the senior manager who was responsible for employment relations issues), other senior managers, employee representatives, individual employees, senior trade union officials and union representatives. All interviews were recorded and transcribed and then they were typed and stored in: MS Word, N-Vivo and PDF files. Access for the interviews in all the case-studies was provided by the HR managers, who personally arranged the meetings or provided the details of potential interviewees who were subsequently contacted by the researcher. In addition, in case-study two, the director of Group Logistics and IT was the link person who made the contact with the depot director and HR manager at the depot sites.

Even though only a limited number of the interviews were with union representatives, their viewpoints still provided useful insights. More specifically, one face-to-face interview was conducted with a trade union representative and one filled out an interview question schedule. However, as discussed above there are limitations when questionnaires are used, because in such instances the question schedule is structured and it is not easy or is sometimes impossible to ask follow up questions, as correctly conducted semi-structured interviews can usually allow for. In addition, only a limited number of interviews took place in case-study four: the HR and field support managers (whilst one additional phone interview took place with the HR manager after a period of one year). Moreover, no interviews were conducted with employees or union representatives at the Manchester site in case-study one and in fact only the HR manager made a contribution.

In sum, the research approach allows for the different perceptions and beliefs amongst the participants, namely: individual employee representatives, union representatives and managers, to be elicited as highlighted by other researchers and academics

(Kochan et al., 1986; Purcell and Ahlstrand, 1994; Storey, 1992; Hyman, 1987; cited in Brewster, 2007: p. 779). Further details in relation to the conduct of the interviews and the job titles/responsibilities of interviewees, are provided in table 3.2. Moreover, in conjunction with the purposes of the empirical fieldwork, permission was granted for a non-participant observation in the consultative council meetings in case-studies one and three, which provided a substantial clear view of how the arrangements are operating in practice.

3.7 Limitations in Conducting the Interviews

First of all, as it has been argued in the previous section, the relative lack of interviews with trade union representatives was a considerable limitation for the purposes of the research. However, the two interviews with union representatives, which were carried out in two case-study organisations, did provide a substantial amount of useful data. However, access was difficult to obtain because permission from HR managers was a prerequisite and this was not always forthcoming. Moreover, in other cases union representatives were reluctant to express their opinions, given that they were not particularly familiar with the interviewer.

In addition, apart from the four case-studies, two visits were made to two other manufacturing companies included in the survey and in both cases interviews were only conducted with the HR managers. One organisation is a multinational company that manufactures vehicle components, in which a JCC operates alongside a union-based negotiation forum (there is also representation on a European works council). This organisation provided a good example of voice arrangements in a highly-unionised workplace, given that the vast majority of employees (more than 91 per cent) are members of Amicus or Unite union. However, it emerged that no changes and adjustments had been made as a result of the implementation of the ICE Regulations to UK workplaces. This case-study research was not included in the selected sample as limited access was offered in relation to conducting research within this organisation. One interview with the HR manager took place, which was recorded and transcribed (1st December 2006), but when no permission was given for the collection of documentary evidence for reasons of confidentiality, it was decided not to conduct any further empirical research.

		Date of Interview	Job Occupation and Responsibilities	Gender	Type of Interview
Case-Study 1	Manchester	8th March 2006	HR Manager	Male	One-to-One
	Felixstowe	11th March 2006	Staff Employee Representative (Chairman of the Consultative Council)	Male	One-to-One
		11th March 2006	Trade Union Representative (Manufacture Associate Representative)	Male	One-to-One
		16th March 2007	HSE Manager	Female	Filled-out Questionnaire
Case-Study 2	Head Office	17th May 2006	HR Manager	Female	One-to-One
		6th July 2006	Finance Board Director	Male	One-to-One
		6th July 2006	Employee Representative (F Grade) - Buying, Marketing and Merchandising	Male	One-to-One
		25th July 2006	Group Logistics and IT Director	Male	One-to-One
		25th July 2006	Employee Representative – D Grade – Constituency of Finance	Male	One-to-One
		25th July 2006	Employee Representative – D Grade – Constituency of Property and HR Management	Female	One-to-One
		25th July 2006	Employee Representative (F Grade) - Sales/Ledger/Finance	Female	One-to-One
	Bridgwater Site/Depot	12th December 2006	HR Manager	Female	One-to-One
		12th December 2006	Management Representative	Male	One-to-One
		12th December 2006	Depot Director	Male	One-to-One
Case-Study 3	Yeovil Store	7th June 2006	Individual Employee from Catering Department	Female	One-to-One
		7th June 2006	Individual Employee from the Finance Team	Female	One-to-One
		7th June 2006	Representative from Section Managers in Fashions (DSM1)	Female	One-to-One
		7th June 2006	Secretary of the Store Council	Female	One-to-One
		7th June 2006	Individual Employee from the Warehouse Department	Male	One-to-One
		7th June 2006	HR Officer	Female	One-to-One
		7th June 2006	Representative from Section Managers in Furniture Store (DSM2)	Female	One-to-One
		7th June 2006	Representative from Section Managers in Cook-shop (DSM3)	Female	One-to-One
		7th June 2006	Employee Representative from the Finance Group	Female	One-to-One
		7th June 2006	HR Manager	Female	One-to-One
		25th October 2006	Store Director	Male	One-to-One
Case-Study 4	Head Office	17th November 2006	HR Manager	Female	One-to-One
		November 2007		Female	Phone
		17th November 2006	Field Support Manager	Female	One-to-One

Table 3.2: List of Interviews with Trade Union Representatives, Individual Employees and Management Representatives.

Similar events occurred in relation to the second potential case-study organisation that was eventually not included in the selected sample. It is part of a multinational company that manufactures cosmetics and has a JCC along with a union-based forum for negotiation purposes (once again there is a representation on a European works council). Moreover, approximately 51 to 71 per cent of the employees are members of the Amicus union. In relation to the selection criterion (c), which is concerned with the diverse forms of representation, in this potential case-study the union representatives had taken the initiative to include in their proposals the issue of the ICE Regulations with regard to the possibility for any adjustments or modifications, and in fact, these had actually been taken as an item for discussion on the agenda of the union meetings. Negotiations about the review of employee voice arrangements lasted for nearly six months (during 2006), but eventually there was mutual consent by both parties and partners that no changes were necessary and it was agreed to maintain the current information-sharing, consultation and negotiation arrangements, as defined in the constitution and trade union recognition agreements. However, the HR manager of this company did not grant permission for the recording of the interview (23rd January 2007) or the collection of any relevant documentation, for reasons of strict confidentiality and consequently no further interviews were conducted.

These two case-studies, which were not included in the main sample for in-depth analysis, represent typical examples of the potential obstacles that are generally encountered and have to be addressed during the conducting of empirical fieldwork.

3.8 Summary

This research endeavour has a qualitative framework and is based on an inductive methodological approach, within the context of a case-study design. The epistemological stance relies on the principles of interpretivism, whilst from the ontological point of view it predominantly relies on the perceptions of human and social actors. Notwithstanding the underlined limitations, there was sufficient access for the conduct of interviews and collection of relevant documentary evidence within the four case-studies. It is notable that a substantial number of interviews with employee representatives and individual employees took place for case-studies two

and three, which helped to compensate for the lack of interviews with employees in case-study four. Moreover, the adopted methodology and subsequent conduct of the empirical fieldwork are entirely appropriate for eliciting rich data with regard to the emerging themes that, in turn, can allow for effective addressing of the research questions.

This chapter has provided a detail account and justification for the research methodology. The next five chapters contain the empirical evidence gathered, beginning with chapter 4, which reports on the results from the survey of organisations in relation to the ICE Regulations that were subsequently drawn upon in order to identify the case-study organisations for the main investigation.

CHAPTER FOUR

ANALYSIS OF THE SURVEY

4.1 Introduction

A survey was conducted with the collaboration of ACAS, between December 2005 and January 2006, and the sample included 500 organisations in Great Britain (from various sectors - with at least 150 employees) drawn from the ACAS database. 74 organisations (nearly 15 per cent) responded to the questionnaire, 41 of which had a trade union recognition agreement and 33 did not (table 4.1 illustrates the sample that provided responses) and the majority (i.e. 60 out of 74; 81.08 per cent) of these were from the private sector. The highest proportion of those with agreements came from the manufacturing sector (20 out of 41; i.e. 48.78 per cent), whilst non-unionised organisations from this sector were somewhat less common in terms of the overall sample (12 out of 33; i.e. 36.36 per cent). It has to be noted that some of the non-unionised organisations had very low trade union membership, with 15 having 10 per cent or less trade union membership and only one between 31 and 50 per cent membership; the rest of respondents did not provide an answer to this question.

The survey provides an interim cluster of findings for the transposition of the EU legislation on information and consultation of employees in Great Britain, and took place approximately nine months after the official implementation of the ICE Regulations. Its purpose was to assess the extent to which direct and indirect forms of employee voice were being used by British organisations, the use and content of information-disclosure and consultation, and to identify any changes or future plans in relation to the implementation of the ICE Directive (2002/14/EC). More importantly, the survey was also used as a tool to trace potential case-studies for the research project. Ten organisations volunteered to participate in the research, and finally, four of them were included in the selected sample for the main case-study research.

The main finding of the survey is the fact that the ICE Regulations are having a stronger influence in non-unionised workplaces rather than in the unionised sector.

That is, the majority of the organisations that decided to take no action appeared to have a trade union recognition agreement, whilst those that intended to set up a negotiation body appeared to be predominantly non-unionised organisations. In addition, the findings from the survey confirm that JCCs (and indirect forms of participation) are certainly more widespread and evident in the unionised sector rather than in workplaces where trade union recognition agreements are non-existent. These outcomes are consistent with those of Cully et al. (1999), who argue that “...*union representation and indirect employee participation go hand in hand...*” (p. 100) and that, in general, there is a tendency for non-unionised workplaces to rely mainly on direct forms of employee involvement/participation. However, Hall (2006) strongly emphasises that “...*reliance solely on the use of direct methods of information and consultation is unlikely to be considered a realistic or desirable means of meeting the Regulations’ requirements...*” (p. 466). Moreover, drawing on the survey results, it is argued that the ICE Regulations are more likely to bring substantial changes to non-unionised workplaces where representation-based bodies for collective consultation are not widespread than to those that are unionised. Further, it has emerged that the vast majority of respondents (who were predominantly HR managers) have a relatively good knowledge of the ICE Regulations (further details are provided in table 4.3) However, as will become apparent in the empirical case-study interviews, when considering individual employees there is strong evidence that there is a distinct lack of understanding of the legislative provisions.

Table 4.1: Background of the Organisations that Responded to the Survey.

		Recognition of Trade Unions		Total
		No	Yes	
Type of Organisations	Public	5	8	13
	Private	28	32	60
	Voluntary Sector	0	1	1
Total		33	41	74

Table 4.2: Sectoral Categorisation of Organisations.

		Recognition of Trade Unions		Total
		No	Yes	
Type of Organisations	Manufacturing	12	20	32
	Construction	1	0	1
	Wholesale and Retail	2	5	7
	Hotels and Restaurants	4	0	4
	Transport and Communication	0	2	2
	Financial Services	1	0	1
	Other Business Services	10	5	15
	Public Administration	0	2	2
	Health and Social Work	2	2	4
	Other Community Services	1	5	6
	Total	33	41	74

Table 4.3: Level of Knowledge of the ICE Regulations.

		Recognition of Trade Unions		Total
		No	Yes	
Level of Knowledge of ICE Regulations	Not at all	0	1	1
	Little	3	1	4
	To some extent	11	15	26
	Quite a lot	17	19	36
	Extensive	2	5	7
Total		33	41	74

4.2 Direct Forms of Employee Involvement and Participation

Taking into consideration the issue of trade union recognition agreements, the results of the survey reveal slightly different patterns in the direct forms of involvement in relation to the unionised and non-unionised sectors. More specifically, there would appear to be a slight tendency for more widespread use of direct employee involvement practices in the latter rather than in the former. According to the empirical findings of other researchers, “...*direct communication practices do not seem to have been used to supplant indirect representation via trade unions, but there is some small evidence that they may be used to exclude unions...*” (Forth and Millward, 2002: pp. 22-23; cited in Gospel and Willman, 2005: p. 133). The evidence

from the survey would appear to concur with this view that unionised organisations continue to use indirect forms of involvement, whereas those who are non-unionised are increasingly engaging in direct representation to get their employee voice heard.

In general, Gospel and Willman (2005) suggest that direct forms of involvement are steadily becoming more widespread and argue that “... *regular meetings between senior managers and the workforce, problem-solving groups and briefing groups all increased significantly in the private sector...*” (p. 132). In this regard, the findings of the survey indicate that there is increasing incidence of direct of forms of involvement amongst both the unionised and non-unionised sectors, but this is most marked in the latter type of workplaces. Detailed figures and presentation of the survey data in relation to the direct forms of involvement used by the organisations are provided in the appendices and notes and the analysis is primarily based on the distinction between the existence, or not, of a trade union recognition agreement.

4.3 Indirect Forms of Employee Involvement and Participation

As illustrated in table 4.4, half of the respondents indicated the absence of European works councils in their organisation (37 out of 74; i.e. 50 per cent) and what is more, twenty one did not provide an answer to this question. This can be primarily attributed to the fact that most of the organisations in the survey are not multinational. In fact, the response rate of ‘a great deal’ is relatively very low both for the unionised (three out of 41; i.e. 7.31 per cent) and non-unionised sectors (three out of 33; i.e. 9.09 per cent). Moreover, the respondents from only one unionised and one non-unionised organisation denoted that they use EWCs ‘often’, whilst there were identical response rates amongst the unionised and non-unionised organisations for the categories ‘infrequently’ and ‘sometimes’ (three out of 41; i.e. 7.31 per cent, and one out of 33; i.e. 3.03 per cent, respectively).

Table 4.4: The Use of European Works Councils in the Unionised and Non-Unionised Sectors.

		Recognition of Trade Unions		Total
		No	Yes	
European Works Councils	Not at all	17	20	37
	Infrequently	1	3	4
	Sometimes	1	3	4
	Often	1	1	2
	A great deal	3	3	6
	Not answered	10	11	21
Total		33	41	74

The responses reveal that there was substantial variation in the use of other indirect forms of employee involvement (such as: non-routinised written communications or meetings between employee representatives and senior managers). However, it is evident that unionised workplaces have predominantly adopted this type of employee involvement (further details are provided in table 4.5). More specifically, the majority of the unionised organisations (12 out of 41; i.e. 29.27 per cent) replied equally ‘sometimes’ and ‘often’. A similar response rate is revealed in terms of using this mechanism extensively for both the unionised (six out of 41; i.e. 14.63 per cent) and non-unionised sectors (five out of 41; i.e. 15.15 per cent). On the other hand, 14 organisations reported that they did not use this indirect form of participation at all and there was a higher response rate in this category from the non-unionised sector (nine out of 33; i.e. 27.27 per cent) as compared with that of unionised workplaces (five out of 41; i.e. 12.20 per cent).

Table 4.5: Non-Routinised Written Communications or Other Forms of Indirect Participation.

		Recognition of Trade Unions		Total
		No	Yes	
Non-routinised Written Communications	Not at all	9	5	14
	Infrequently	6	5	11
	Sometimes	5	12	17
	Often	4	12	16
	A great deal	5	6	11
	Not answered	4	1	5
Total		33	41	74

One of the most notable findings of the survey is the responses regarding the use of JCCs or any other forms of employee representative bodies. As is also confirmed from the results of other surveys (such as: WERS 2004, IRS 2005, WMERF 2005), these indirect forms of employee involvement are more evident and widespread in unionised workplaces. Referring to the WMERF 2005 survey, Hall (2006) points out that:

“...non-union organisations in the survey were less likely than unionised organisations to inform and consult directly, and were less likely to have information and consultation bodies. They were more likely to have no information and consultation arrangements at all...” (p. 464).

According to the findings of this survey, 28 respondents (i.e. 37.84 per cent) indicated that they use JCCs ‘often’ (details are illustrated in table 4.6 and figure 4.1). In particular, there is a much higher response rate for the unionised sector (18 out of 41; i.e. 43.90 per cent) in comparison with the non-unionised sector (10 out of 33; i.e. 30.30 per cent). Similarly, JCCs are more extensively used (i.e. ‘a great deal’) by 22 organisations, with a higher response rate for the unionised sector (14 out of 41; i.e. 34.15 per cent) and a relatively lower one for the non-unionised sector (eight out of 33; i.e. 24.24 per cent). By contrast, there were 10 responses for no use ‘at all’, with seven of these coming from non-unionised organisations. Finally, only seven organisations are using JCCs ‘infrequently’ or ‘sometimes’ and in these categories, taken together, four of them are non-unionised.

Table 4.6: The Use of Joint Consultative Committees in the Unionised and Non-Unionised Sectors.

		Recognition of Trade Unions		Total
		No	Yes	
Joint Consultative Committees	Not at all	7	3	10
	Infrequently	4	3	7
	Sometimes	4	3	7
	Often	10	18	28
	A great deal	8	14	22
Total		33	41	74

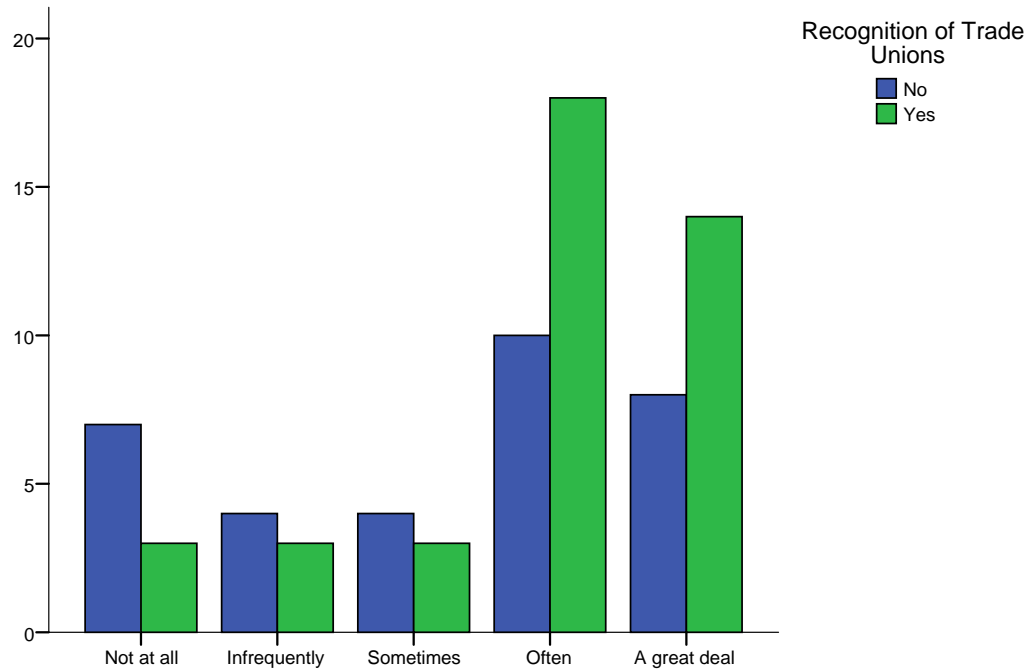


Figure 4.1: The Use of Joint Consultative Committees or Employee Representative Bodies.

A strong positive correlation between having a union recognition agreement and the use of JCCs is also apparent, while the trade union membership is an additional and influential factor. Similarly, through their own research Gospel and Willman (2005) suggest that “...union recognition and consultative committees appear to be associated in each size band...” (p. 130). More specifically, according to the findings of the conducted survey, more than a half of the organisations (16 out of 28; i.e. 57.14 per cent) that use JCCs ‘often’ have 51 per cent or more trade union membership (further details are illustrated in table 4.7). Similarly, of the 22 organisations responding that they normally use JCCs ‘a great deal’, half of them have 31 per cent or more trade union membership.

		Members of Trade Unions						Do not know	Not answered	Total
		Less than 10%	11%-30%	31%-50%	51%-70%	71%-90%	More than 90%			
Joint Consultative Committees	Not at all	3	1	0	1	1	0	4	0	10
	Infrequently	3	1	1	0	0	0	2	0	7
	Sometimes	2	1	0	0	1	0	2	1	7
	Often	4	1	2	9	5	2	4	1	28
	A great deal	4	2	7	3	0	1	3	2	22
Total		16	6	10	13	7	3	15	4	74

Table 4.7: Joint Consultative Committees and Trade Union Membership.

At the time of research, it emerged that those organisations that had pre-existing agreements and JCCs were less prone to make substantial changes as a result of the implementation of the ICE Regulations (further details are provided in tables 4.8 and 4.9, and figure 4.2). For instance, twenty-three organisations had designed (or were intending to design) a pre-existing agreement, of which eighteen (i.e. 78.26 per cent) used JCCs ‘often’ or ‘a great deal’. In addition, eighteen organisations had decided to take no action and ten of these (i.e. 55.56 per cent) used JCCs ‘often’ or a ‘great deal’. To sum up, because JCCs are stronger and more widespread in unionised workplaces, it was anticipated that unionised companies would tend to ‘take no action’ and this is confirmed by the findings of the survey (details are illustrated in table 4.10). More specifically, thirteen out of the eighteen organisations that decided to ‘take no action’ appear to have a trade union recognition agreement.

Therefore, the evidence from the survey appears to support the perspective that unionised organisations usually have structured mechanisms for consultation and negotiation, in which case the provisions of the ICE Regulations are viewed as relatively inferior, and consequently, no changes or modifications are considered necessary. For instance, of those organisations that decided to ‘take no action’, 11 had 51 per cent or higher trade union membership, and only two had less than 10 per cent (table 4.10). Furthermore, it is noteworthy that eight organisations denoted that they intended to ‘set up a negotiating body’ and seven of these did not have a trade union recognition agreement in place (table 4.8). As a consequence, it can be surmised that non-unionised organisations may be more inclined to set up such bodies, because they generally appear to have less well co-ordinated and more poorly structured mechanisms of representation.

It is also worth mentioning that sixteen unionised organisations indicated their intention to discuss their current arrangements (table 4.8), which reinforces the view that trade union representatives are relatively more aware of the ICE Regulations. In other words, this outcome is consistent with some of the arguments discussed in the literature review in chapter 2. More specifically, it is suggested that union representatives are more likely to put items relating to the ICE Directive on the agenda of consultative meetings and union forums, and thus, they can have the opportunity to review their pre-existing arrangements in accordance with their own

interests. By contrast, individual and non-unionised employees tend to lack the required: co-ordination, knowledge and expertise for taking such initiatives. Finally, only a small number of organisations denoted that they intended to ballot their workforce.

Table 4.8: Organisational Responses and Intended Actions as a Result of the ICE Regulations.

		Recognition of Trade Unions		Total
		No	Yes	
Organisational Response to ICE Regulations	Design a pre-existing agreement	15	8	23
	Discuss with a recognised trade union	-	16	16
	Ballot the workforce	2	1	3
	Set up a negotiating body	7	1	8
	Decide to take no action	5	13	18
	Other	4	2	6
Total		33	41	74

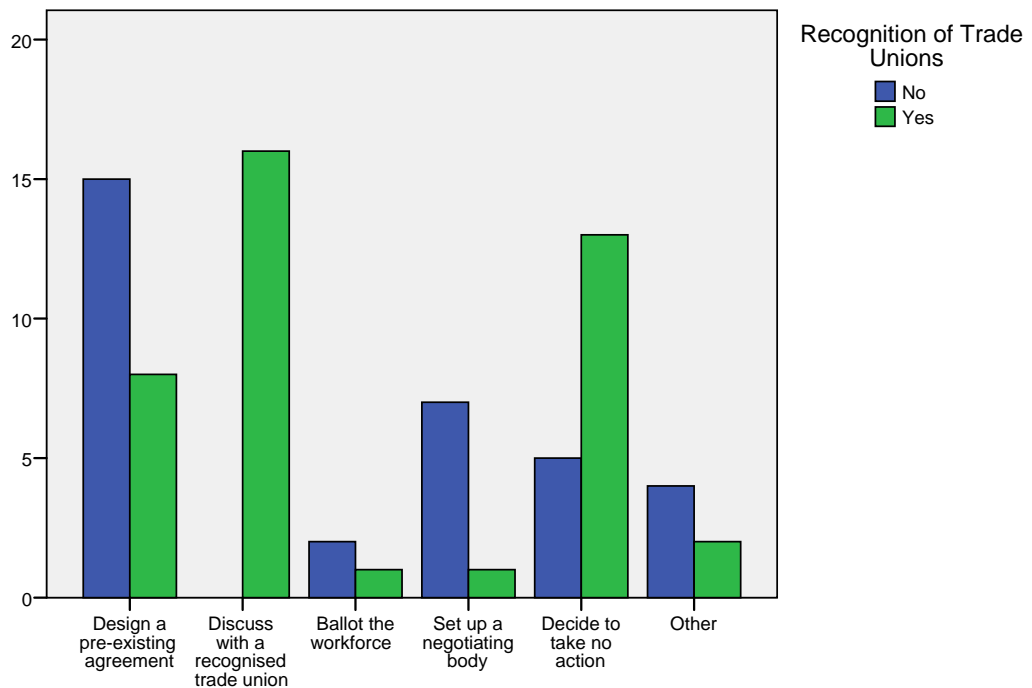


Figure 4.2: Organisational Responses to the ICE Regulations.

		Joint Consultative Committees					Total
		Not at all	Infrequently	Sometimes	Often	A great deal	
Organisation's Response to ICE Regulations	Design a pre-existing agreement	3	2	0	6	12	23
	Discuss with a recognised trade union	0	1	2	8	5	16
	Ballot the workforce	0	0	1	1	1	3
	Set up a negotiating body	1	1	2	3	1	8
	Decide to take no action	5	2	1	7	3	18
	Other	1	1	1	3	0	6
Total		10	7	7	28	22	74

Table 4.9: Organisational Responses to the ICE Regulations and Use of Joint Consultative Committees.

		Members of Trade Unions								Total
		Less than 10%	11%-30%	31%-50	51%-70%	71%-90%	More than 90%	Do not know	Not answered	
Organisation's Response to ICE Regulations	Design a pre-existing agreement	7	4	2	1	1	0	6	2	23
	Discuss with a recognised trade union	1	1	4	5	3	1	0	1	16
	Ballot the workforce	0	0	0	1	0	0	2	0	3
	Set up a negotiating body	3	0	1	0	0	0	4	0	8
	Decide to take no action	2	0	2	6	3	2	3	0	18
	Other	3	1	1	0	0	0	0	1	6
Total		16	6	10	13	7	3	15	4	74

Table 4.10: Organisational Responses to the ICE Regulations and Trade Union Membership.

Another perspective on the impact of the ICE Regulations is the level of anticipation that the employees were intending to vote to on whether to endorse the triggering of the statutory procedures for negotiations. According to the responses, in twenty four organisations it was considered ‘not at all likely’ that employees would attempt to endorse such request, whilst in a further thirty nine organisations it was deemed “not very likely”. In fact, only in five organisations (i.e. 6.76 per cent), was it believed that employees would “quite likely” do so³⁷ (further details are provided in table 4.11). In line with the aforementioned evidence, Hall (2006) suggests that: “...a striking finding from both the IRS and WMERF surveys... is the very low expectation on the

³⁷ During one visit, an interview was conducted with the HR manager in one of these companies. According to him, the issue was brought into the discussion by the union representatives, in order to have a review of the constitution of the JCC and also for the separate consultation/negotiation forum that is normally held with the union representatives of Amicus. The issue had been discussed for approximately 6 months, but after mutual consent, no changes were made since it was considered that the company already complied with the legislation, in terms of the necessary communication, consultation and negotiation mechanisms, as were appropriate to each body. This organisation was not finally included in the selected sample of the case-study empirical research, because as already explained in the research methodology chapter, there was heavily restricted access for conducting any research in this organisation, with no permission being given for documentary collection and thus no further interviews were finally conducted.

part of employers (3% in both the IRS and WMERF surveys) that their employees will request negotiations under the Regulations on the establishment of new information and consultation arrangements...” (p. 464). On the other hand, other surveys (CBI, 2006; IRS, 2005; LRD, 2006) indicate that information-sharing and consultation arrangements have slowly started to emerge (Hall et al., 2007: p. 7). Finally, the majority of respondents considered that the ICE Regulations could bring little change to the overall context of British employment relations, and this belief was especially strong in unionised workplaces (further details are provided in tables 4.12 and 4.13).

Table 4.11: Possibility of There Being Endorsement of a Request for New Information and Consultation Arrangements

		Recognition of Trade Unions		Total
		No	Yes	
Potential Requirement for new I&C Arrangements	Not at all likely	10	14	24
	Not very likely	20	19	39
	Unsure	0	4	4
	Quite likely	1	4	5
	Not answered	2	0	2
Total		33	41	74

Table 4.12: Perceived Impact on the Employment Relations.

		Recognition of Trade Unions		Total
		No	Yes	
Potential Change in the Employment Relations	Not at all	5	8	13
	Little	13	21	34
	To some extent	13	10	23
	Quite a lot	2	2	4
Total		33	41	74

Table 4.13: Impact on the Climate of Employment Relations.

		Recognition of Trade Unions		Total
		No	Yes	
Potential Change in the Climate of Employment Relations	No change	25	33	58
	A bit better	6	7	13
	Much better	2	0	2
	Not answered	0	1	1
Total		33	41	74

4.4 Nature of the Issues Covered in Information-Sharing and Consultation with Employees

Information-sharing emerged as being consistently widespread for most issues, both at unionised and non-unionised sites, except for those concerned with ‘Corporate Social Responsibility’ (further details are provided in the appendices and notes). Moreover, provision of information regarding ‘Training Strategy’ and ‘Equality/Diversity’ issues, tended to be more infrequent than for other matters. In nearly all cases of the survey ‘information-sharing’ around issues that directly affected employees (such as employment and pay issues) was reported as being fairly extensive and this was particularly so for the unionised sector.

Similar to the case of information-sharing, according to the findings of the survey, consultation was found to be quite extensive for the majority of the issues (predominantly in the unionised sector), once again with the exception of issues about ‘Corporate Social Responsibility’. It emerged that employees were consulted to a moderate level on issues relating to: ‘Training Strategy’, ‘Technological Changes’, and ‘Equality and Diversity’. Moreover, it was revealed that items normally included on collective bargaining agendas (such as: employment and pay issues) were regularly put forward for consultation in unionised workplaces. Similarly, consultation on ‘Health and Safety’ issues was quite detailed in the unionised sector, which is not particularly surprising given that this is generally considered to be a compulsory item in the context of consultation with employees. A detailed overview of the data from the survey on the aforementioned issues can be found in the appendices and notes.

4.5 Summary

In general, surveys can provide in-depth information (Hakim, 1992) about the content of specific issues and constructs that are embodied in research objectives. More specifically, the postal survey provided interim evidence about: the use of direct and indirect voice mechanisms, the content of information-sharing and consultation arrangements, and a brief overview of both initial and future responses of the employers and employees in relation to the first stage of the phased implementation of the ICE Regulations. In general, the findings of the survey suggest that in unionised workplaces pre-existence of consultation arrangements is more evident, and in these scenarios organisations are less prone to take any action and make any changes as a result of the implementation of the statutory provisions. In other words, consistent with the available literature and other empirical research evidence, the results of the survey underline the assertion that union-based employee representation structures are more influential in terms of employee voice, and this is particular the case where trade union membership is relatively higher.

On the other hand, non-unionised organisations would appear to rely more on direct forms of employee involvement and therefore they may engage in further action in relation to establishing new forms of employee representation as provided by the transposition and implementation of the ICE Directive. Finally, the survey provided the opportunity for identifying potential case-studies for the main empirical fieldwork. In this regard, the case-studies can provide a more thorough and insightful understanding of the information and consultation arrangements, because they can elicit a rich variety of data through the interviews with: managers, employee and union representatives, something that a simple survey cannot normally achieve by itself.

CHAPTER FIVE

CASE-STUDY ONE

5.1 Organisation's Structure and Employee Representation

5.1.1 Introduction

The first case-study of the research is a French owned multi-national company. It is considered to be one of the biggest leaders in the design and manufacturing of meters and systems for the: electricity, gas, water and heat markets. It has many sites worldwide and two main manufacturing undertakings/sites in the UK, which produce electricity (in Felixstowe) and gas (in Manchester) meters and are both unionised, becoming part of the same group in 1989. As appears on company's website, its stated vision is: *"...to be the worldwide reference for delivering innovative and competitive metering products and systems to our customers..."*. There is also a stated aim for *'employees' empowerment'*, in relation to which *"...through continuous development, we give our employees the opportunity to reach their full potential and express their leadership, entrepreneurship and individual sense of responsibilities..."*.

Employees are designated with particular titles:

- Direct workers (who are directly concerned with manufacturing production)
- Indirect workers (who are the support staff)
- Administrative and management staff.

There is a different style of employee representation for the two UK sites in relation to information-sharing, communication and consultation procedures, owing to the variations in: culture, history and problems faced in the past. There are also distinct forms of representation regarding the direct workers and the rest of the employees, with the former being the only ones having trade union recognition agreements for collective bargaining purposes

5.1.2 The Felixstowe Site

There is a formal trade union recognition agreement with Amicus and the TGWU³⁸, which was reviewed and further enforced after a ballot (2004). Previous to that there was a recognition agreement with the TGWU (1989), with six trade union representatives and there was also 100 per cent union membership. However, after 1989 largely because the working conditions were relatively stable, most of the employees did not want to be trade union representatives and after 1992 when the only remaining trade union representative finally retired no one came forward to replace him and the recognition agreement was ended by default. After that, there were no communication channels or any form of information and consultation arrangements. The management took the initiative to request volunteers as representatives from different constituencies (table 5.1 provides a complete list) in order to create a forum, but the procedures were less formal than before and between 1992 and 1998, there was communication and consultation with direct workers, but not with the indirect workers. In other words, management's main efforts were just put into having communication with the direct workers, constituting about 100 employees, leaving the support staff, who numbered about 50, largely unrepresented.

In 1998, owing to a significant downturn in business, a decision to make redundancies was taken. However, because of the legal requirements, as prompted by the British government³⁹, they had to set up a consultation body for all the areas affected by the proposed dismissals, so as to comply with the required procedures. Hence, through the instigation of management a formal consultative committee was created, which was a pre-cursor to the later established Consultative Communication Committee or Company Consultative Committee (CCC). Moreover, employee representatives and trade union officials were actively involved in this process. In addition, a trade union recognition agreement and union-based representation were re-established and with the external involvement of ACAS, a new constitution was written and agreed upon, which amongst other measures required there to be: a chair person, a deputy chair person and elected representatives.

³⁸ On 1st May 2007, Amicus and TGWU merged and formed the biggest union in the UK, which is known as: Unite the union (<http://www.unitetheunion.org/>). Therefore, it is implicitly assumed that the organisation has a trade union recognition agreement with Unite.

³⁹ Department of Trade and Industry (1996), *Redundancy Consultation and Notification*, PL 833 (rev3); Department of Trade and Industry (1998a), *Employees' Information and Consultation Rights on Transfers of Undertakings and Collective Redundancies*, Public Consultation Document URN 97/988.

During the development of the Constitution Agreement, the members of the committee decided what kind of information should be communicated and how the consultation process would take place. Since this time the CCC has included representatives from all areas across the site and consists of: one place for the senior trade union representative, two for those from the manufacturing associates, one from each constituency, nominated managers, and a representative from the HR department. As described by the HR manager, it involved an “*evolution*” process. Since 1998, the business has been continuously growing, with the number of employees steadily increasing and it is being claimed by the HR manager that there is a very good climate for employment relations, with jobs being generally secure.

Currently, the CCC is the main representative body at the Felixstowe site. It has a hybrid form as it involves the: direct workers (about 50 per cent of them are trade union members), indirect workers and the other administrative/support staff. That is, this is a representation body for union and non-union employees. Alongside these meetings there is a union-based forum for negotiation and discussion of collective issues, as defined in the trade union recognition agreement with Amicus and the TGWU. In addition, a variety of other methods are used as a part of the company’s daily working practices; these mainly include direct involvement practices (based on downward and two-way communication schemes), such as: team/department meetings, site communication briefings, focus groups or workshops, staff newsletters, noticeboards and e-mail notices/reporting⁴⁰. Another factor that affected the company was a change of the ownership during the 1990s, which internationalised it further and thus this helped the management to be more aware of the legislative requirements prompted by the European directives. Moreover, this increased internationalisation resulted in the election of one representative from the Felixstowe site onto the European works council. At the time of the research, the total number of employees had risen to approximately 250.

⁴⁰ Further detailed information and other insightful aspects, about the level of direct and indirect voice mechanisms at the Felixstowe site, are provided in the appendices and notes.

5.1.3 The Manchester Site

At this site, the structure of the company is similar to that in Felixstowe, but the situation is different in relation to the form of employee representation and voice mechanisms. In this regard, all the direct workers (about 60 to 70 employees) are trade union members and there is a trade union recognition agreement with the GMB union, but there is no formal body of representation for communication and consultation with the indirect workers or the rest of the staff. That is, there is a communication, consultation and negotiation body involving seven trade union representatives for the direct workers, whereas the rest of the workforce only engages in direct communication and consultation arrangements that are based on downward and in some cases two-way communication mechanisms⁴¹.

In 1989, the total number of employees was about 1,200, whereas by 1994, the number had decreased to about 750 as the deregulation of the utility market had deeply affected the company. Moreover, in 1994 sales reduced significantly because of the main customer's decision not to purchase mechanical gas meters any longer but to acquire static meters instead. This change was the main dominant challenge that the company had to address during the 1990s and this later deeply affected the form of employee representation, not least because the number of employees was drastically reduced to 180 early in 1994. However, after a few months, the orders came back to the standard level, because it turned out that the static meters that the customer had opted for did not work after rigorous testing and consequently, the number of employees increased so that by the end of 1994 there were approximately 250. Nevertheless, since this time the company has primarily used short-term contracts (STCs) and now employs a substantial number of agency workers. As the HR manager noted, the dramatic changes in the number of employees that involved large scale collective redundancy "*traumatised the employee relations*". Furthermore, the HR manager added that the harsh period of redundancies left the direct workers perceiving that the trade union recognition agreement with the GMB was the only "*shield*" capable of "*defending*" their collective rights (i.e. regarding consultation and negotiation) and therefore they sanctioned the union to operate through a highly

⁴¹ Further detailed information and other insightful aspects, about the level of direct and indirect voice mechanisms at the Manchester site, are provided in the appendices and notes.

structured formal forum. Currently, the total number of employees is approximately 180 (including full and part-time).

Since 1994, because of there being a confrontational relationship between management and trade union representatives, any initiative to set up a consultative council or any other broader form of representation alongside that of the trade union forum, was seen by the union officials as an attempt to limit their power over consultation and negotiation rights, thereby enhancing management: involvement, power and prerogative in the decision-making process. Another notable feature is the fact that the UK representative on the European works council comes from the Felixstowe site and there is not one from Manchester. In this regard, the trade union representatives at the Manchester site appear to be indifferent to having a ballot in order to elect a representative to this council, which shows how strongly attached they are to the trade union recognition agreement and their ambivalence, if not hostility, to any other form of employee representation.

5.1.4 Overview

The CCC is formally the main information-sharing, communication and consultation body at the Felixstowe site. However, on both sites collective negotiation, consultation and communication procedures over: pay, terms and conditions (or other employment issues etc), involve: the trade union officials (who represent the direct workers), the HR manager and manufacturing management. Indirect workers and administrative staff are not trade union members and do not have a collective agreement. At the Manchester site, these employees consult individually without any formal system of collective representation, whereas at the Felixstowe site they are represented through the CCC meetings. Moreover, on both sites the negotiation procedures for indirect workers and administrative staff are carried out at the individual level. There is direct provision in relation to information-sharing and communication to all employees through the company's intranet, e-mail reporting, notice boards etc⁴². Both sites have experienced periods of intense and conflictual industrial relations, with job losses and employment insecurity, mainly caused by market pressures and these problems and constraints have affected the form that

⁴² The level, content and issues included in the arrangements of informing and consulting with the employees at both sites, are provided in detail in the appendices and notes.

employment relations have taken and hence, the style of workplace representation at each site. With respect to this, the outcomes have been different at the two sites, in that there are distinct undertakings/establishments and the reasons for this are explored in detail in the following sections.

5.2 Interviews and Collection of the Qualitative Data

For the purposes of the research, semi-structured interviews were conducted with: the HR manager, an employee representative and a senior trade union official. Furthermore, access was granted for the collection of relevant documentation (such as Constitution Agreement documents and minutes from six different CCC meetings) and non-participant observation of a consultative meeting at the Felixstowe site.

Two visits were made to the company's sites, one in Manchester (in March 2006) and the other in Felixstowe (in May 2006). The first interview with the HR manager, who is now the HR director for both UK sites, took place in Manchester. Two months later, semi-structured interviews were conducted with the staff employee representative (who is also the chairman of the consultative council) and a trade union representative at the Felixstowe site, aimed at collecting information about: the history and current status of employee voice mechanisms, the use of information and consultation arrangements, perceptions about the impact and effectiveness of these mechanisms and arrangements, and also the attitude towards and level of awareness regarding the ICE Regulations. In addition, it should be noted that the chairman of the consultative council is also the Felixstowe representative for the company's European works council. At the time of research, all the interviewees had worked for approximately 15 to 20 years in the company, and therefore, they had an in-depth knowledge regarding the developments in terms of such matters as employee representation and changes to employee voice mechanisms over the period in question.

The current HR manager of the company, in the UK, originally started his job at the Manchester site. During the 1990s, he became HR director for both the Manchester and Felixstowe sites. Additionally, he is the company's current global HR director for the electricity business line. There was a long and detailed interview, which lasted

approximately three hours and he provided extensive information about the employee involvement practices and representation at both sites. He began the interview by presenting the history and structure of the company in substantial detail, which helped the researcher, in particular, to acquire a comprehensive understanding regarding the background to employee voice history at both sites. Both the employee representative (who is also the chairman of the CCC meetings) and the senior trade union official at the Felixstowe site have worked in the company since about 1990, the latter's job title being that of process controller. The chairman of the CCC meetings is currently the IT coordinator and representative of the shop floor manufacturing employees at the Felixstowe site and he is also the sole UK representative for the European works council. Finally, the manager of Health, Safety and Environment Issues provided, through a filled out questionnaire, her opinion and views about the information and consultation arrangements across the company. It should be noted that she was the HR manager of the company when the CCC forum was initially set up (1998 to 1999) and was also greatly involved in the development of the company's council.

5.3 The CCC Meetings at the Felixstowe site

5.3.1 Adjustments and Reviews – The Impact of the ICE Regulations

According to the Constitution Agreement document that was signed by management, trade union and employee representatives:

“consultation is the process by which management and employees or their representatives jointly examine and discuss issues of mutual interest. It involves seeking acceptable solutions to issues through genuine exchange of views and information. It does not remove the right of managers to manage but imposes an obligation that the views of employees will be sought and considered before decisions are made” (April, 2005: p. 3),

“provision of information is the process by which management communicates information to employees or their representatives and will depend on the subject matter and impact nature of the issue; all persons will respect the confidentiality of issues when identified – this requirement will be clearly communicated at the time” (ibid).

It should be noted that the previous CCC Constitution Agreement (2003) was brought to the table for review by the HR management team during a CCC meeting in March 2005. In particular, it was put on the agenda in order to ensure compliance with the ICE Regulations, thereby demonstrating that the HR management team had endeavoured to secure employee approval for any proposed changes. More specifically, in February 2005, the ICE Regulations were initially discussed in a subgroup (named the Joint Working Group). Subsequently, the HSE manager⁴³ briefed a CCC meeting about the contents of the regulations, putting forward potential methods for communication and stressing the importance of confidentiality. She also circulated a summary sheet containing the main discussion points of the subgroup, which afterwards were accompanied by the minutes of the CCC meeting, with the agreement that a draft of the latter would be distributed within five to seven working days of the meeting.

The representatives were advised during the CCC meeting that they were bound to acknowledge their acceptance of the changes contained within the minutes, unless they had any amendments to suggest, in which case, these would be reconsidered at the following committee meeting for further review. In addition, all the necessary preparations were taken for the forthcoming nominations and elections of representatives for the newly formed CCC (in May 2005). Other issues related to the composition of CCC meetings, were also discussed, such as the definition of: appropriate representation and the roles and responsibilities of representatives. Subsequently, the HSE manager updated the Constitution Agreement and emailed it to all the representatives, which was then followed by an acknowledgement sheet that was circulated for signing by all concerned to indicate their acceptance of the reviewed document. The view was expressed that all the aforementioned procedures were considered to be “*in compliance with the ICE Regulations*” (CCC minutes, 9 March 2005: p. 4).

In reality, no significant changes or further amendments were made, and all the representatives officially signed the reviewed Constitution Agreement (March 2005) in order to endorse their approval, which was subsequently deemed to be effective

⁴³ The current HSE manager was the HR director in 1998 to 1999. She was greatly involved in the development of the CCC meeting.

from 6th April 2005. The HR manager and all members of the CCC believe that this review actually reflects a Pre-Existing Agreement (PEA)⁴⁴ for the Felixstowe site. In general, in such cases, it is suggested that *“the parties are given a free hand in agreeing the nature of the information and consultation arrangements that will apply”* (Hall, 2006: p. 460). PEAs also provide flexibility that allows for *“arrangements which best suit the structure and culture of the organisation”* (CBI, 2004: p. 18). However, there is no such full coverage of representation or similar Constitution Agreement for the other establishment (or undertaking) located in Manchester. In addition, in the document of the Constitution Agreement, it is explicitly underlined that the CCC is not a negotiation forum.

“All collective bargaining issues relevant to the union recognition agreement may be brought up in the separate [union-based] forum as defined in that agreement”
(Constitution Agreement Document, April 2005: p. 4).

The company takes the view that its agreements at the Felixstowe site fully comply with the legislation and only minor tidying up amendments needed to take place with regard to the Constitution Agreement. In other words, the first CCC constitution document, which was agreed and signed by elected representatives and trade union officials between 1998 and 1999, was the main driver that actually established the current agreement. Therefore, by securing employees’ approval for the recent review of the CCC constitution, it appears that the management team unilaterally and legally underpinned its existing arrangements with a formal voluntary agreement and thus limited the possibilities for the employees to trigger further negotiations under the regulatory statutory procedures. If there was a request for negotiations, the subsequent ballot would require at least 40 per cent of the employees to endorse the request for new negotiations. However, this would seem to be highly unlikely because all the partners: management, employee representatives, and trade union stewards have expressed their current contentment with the agreed constitution. It is worth mentioning that there is a specific section in both Constitution Agreements (in April 2005 and September 2003) about the potential ways of changing and altering the arrangements. More specifically:

⁴⁴ The constitution of the CCC formally meets the criteria of the PEA, because it is written, covers all the employees in one undertaking, was approved by employee representatives and sets out clearly the: information, communication and consultation mechanisms.

“...the Constitution will be periodically reviewed by the HR manager and Chairperson. Normally this will be on a bi-annual basis. The exceptions to this timescale will be where the Constitution requires amendments according to UK legislation and/or best practice under ACAS recommendations” (Constitution Agreement Document, April 2005: p. 11).

5.3.2 The Composition of the CCC Meetings

The CCC is composed of representatives to cover all the employees, including management and as shown in tables 5.1 and 5.2, the representatives encompass all the various constituencies. Moreover, all the employees of the company can be a representative as soon as they have achieved six months service.

The council can have a rotating chairperson on a yearly basis who can be either an employee or a management representative. Usually, the elections for the CCC are held on a bi-annual basis in the middle of the calendar year. Moreover, all the elected representatives are given training in how meetings should be conducted and how they can benefit from them. For all intended purposes, the election procedures are in accordance with ACAS recommendations, in that they are fair and transparent (Dix and Oxenbridge, 2003). The forum meets formally on a bimonthly basis, with special meetings being called when deemed appropriate by the chairperson and the meeting dates are published annually. One acceptable justification for special meetings is when there is a significant site wide issue, which requires communication and consultation prior to the next scheduled meeting, such as a major business issue like collective redundancy that requires consultation in accordance with the legislative requirements. According to the Constitution Agreement document:

“Chairpersons will conduct the business of the meetings and encourage freedom of expression and active participation. They will also convene the meetings. The meetings will normally be 2hrs in duration unless significant additional discussion is appropriate and agreed” (April 2005: p. 7).

Group	No. of Reps	Constituency / Representation
Manufacturing Associates	2	<ul style="list-style-type: none"> • Shop floor: direct workers
Manufacturing Associates	1	<ul style="list-style-type: none"> • Shop floor 'direct workers' who are eligible members of Amicus and TGWU
Staff	4	<p>All staff in all other Departments:</p> <ul style="list-style-type: none"> • MIS / Finance / HR / Site Facilities / Sales & Marketing (1) • Manufacturing Engineering (2) • Product Development / Global Product Marketing / Systems Residential (1)
Management	4	<ul style="list-style-type: none"> • Member of Senior Management Team (2) • HR Manager (1) • Other Management (1)

Table 5.1: Composition of the Participant Representatives on the Consultative Council at the Felixstowe Site (Source: Constitution Agreement Document, April 2005: p. 4).

According to the Terms of Reference, the group is responsible for discussing collective issues. However, when issues are not in consort with the remit of the CCC or should be dealt with in another forum, the group may refer the individuals concerned to the appropriate person in the company. Moreover, for those issues that affect only specific areas, subgroups may be formed and empowered to make decisions on issues concerning that specific subgroup. Nevertheless, their updates/feedback will be communicated to the rest of the CCC membership via e-mail or any other method deemed appropriate.

Management Representatives	Employee Representatives
Management Representatives will be from across the Management Team	All significant employee groups are represented on a constituency basis and should be elected by the employees that they will represent
A member of the Senior management team must be present at all CCC meetings	Six out of the seven Employee Representative positions will be elected in accordance with the CCC constitution
The four Management Representatives will also have designated substitutes	The company will retain one position on the Company Consultative Council for the Union's Senior Representative for the purpose of representation of the Manufacturing Associate Members of the Unions, as defined in the Union Recognition Agreement signed on 17 July 2003
Where appropriate the 'Other Management' representative may be periodically replaced at the discretion of the other 3 Management Representatives	In the Manufacturing Associate constituency, the two Employee Representatives for Shop Floor 'directs' must represent all 'direct' Manufacturing Associates for consultation purposes, whether the Employee Representatives or constituents are members of the Company recognised unions or otherwise
	All collective bargaining issues relevant to the Union Recognition Agreement may be brought up in the Separate forum as defined in this Agreement; the CCC is <u>not</u> a negotiation forum

Table 5.2: Composition and Roles of the Participant Representatives on the Consultative Council at the Felixstowe Site (Source: Constitution Agreement Document, April 2005: pp. 4-5 and 8-10).

5.3.3 The Purpose and Role of the CCC Meetings

According to the HR manager:

"... the purpose of the meetings is to consult, communicate and discuss what we would call...site-wide issues – in other words, issues that are affecting all the employees, rather than little and tiny issues...which can be resolved by the managers in the locality...(and)...it is really the opportunity to open up any other business discussion... I guess the main objective is to have a forum where employees right from the lower levels can sit in front of the general manager and can bring issues...[in order to] work and put together our policies, and communicate our policies..."

As stated in the Constitution Agreement, the council's purpose is *"to provide a framework in order to continually improve business performance through the involvement of all employees in the decision making"* (p. 3). The evidence from this

site would appear to support Ramsey's (1997) claim that the setting up of a CCC, or its equivalent, is an attempt to make employees more receptive to significant changes (e.g. collective redundancies) during periods of economic pressure. Moreover, consistent with the views of Marchington et al., (2001) and Dundon et al., (2006) it emerges that the main reason for having this forum is due to the company's belief that employee participation practices are generally welcome, especially if they contribute to improved: performance, efficiency, profitability and competitiveness. Furthermore:

"the management representative gauges site wide issues/concerns from the Council and Constituency, feeding them into the management team. They also represent management opinion and Company policies, and raise site wide issues for discussion, where possible, before they are implemented into the organisation" (Constitution Agreement Document, April 2005: p. 8).

Overall, the main duties of the elected and nominated representatives⁴⁵ are to maintain regular contact with their constituency members in order to receive relevant requests from them, which they can present to the CCC meetings for consultation, when deemed appropriate. In addition, they have the duties of informing their members of any actions taken and of reflecting accurately the views of their constituencies.

5.3.4 Agenda and Issues for Discussion During the CCC Meetings

The CCC agenda includes information on issues, such as: reviews of the business and financial results, overviews of QHSE issues and HR updates. In addition, management is expected to provide appropriate information, wherever possible, so as to *"provide meaningful consultation to take place"* (Constitution Document for CCC, April 2005: p. 3) in relation to substantial matters, such as proposals for significant organisational or contractual changes. Moreover, the management representatives are in a strong position to raise and explain site wide issues for discussion, such as: company policy. In brief, the standard agenda items for the CCC meeting are as follows:

- Actions/minutes from the last meeting
- Issues raised by employee representatives

⁴⁵ The roles and responsibilities of management and employee representatives are illustrated in detail in the appendices and notes.

- European Company Council (ECC or EWC) update
- Any other business issues.

The agenda items are to be received by the council secretary ten working days before the meeting date and each representative is to be sent the final agenda three days before the meeting. The council secretary is also responsible for taking and issuing minutes, which should be:

“...in summary form with relevant detail included where appropriate, be an accurate record of the main points raised and any decisions reached, indicate who is responsible for taking action on particular topics, and be used by the Chairperson to monitor progress on any action points decided by the CCC...” (Constitution Agreement Document, April 2005: p. 7).

The draft of the minutes is distributed to the representatives, who finally give their approval and/or make suggestions for amendments to the secretary.

In addition, issues that should be discussed under the requirements of employment law, such as: maternity/paternity changes, age legislation and age discrimination, are typical matters brought to the company council as part of the consultation process. That is, ordinary employees are encouraged to express their opinions on such matters and also to put forward to their representatives suggestions for agenda items for discussion at the CCC meetings. As the chairman noted, *“...I do not remember any major issues that have gone by without their letting us know...”*. Furthermore, financial issues, training and development or any issue that directly affects employees are regularly included on the agenda⁴⁶. According to the senior trade union official:

“...usually they [i.e. the management] inform us on most of the business or other important issues, decisions or changes...we have a meeting for everyone from the shop floor about finances, changes and everything here...”.

⁴⁶ The level, content and issues included in the arrangements of informing and consulting with the employees at the Felixstowe site are included in the appendices and notes’.

However, the company's strategic issues are mainly discussed at the European works council meetings, rather than at CCC meetings. Finally, as previously noted, in the Constitution Agreement there is a strong emphasis on confidentiality around any issues that are discussed, in that all those involved must not divulge company matters to the outside world or the external market.

5.3.5 Non-Participant Observation of a CCC Meeting (on 11th May 2006)

A non-participant observation of one of the CCC meetings was conducted in May 2006, with informal discussions taking place with the chairman and the HR secretary prior to the meeting. Both confirmed to the researcher that after 1998 the council constitution was continually reviewed and modifications to the proceedings around CCC meetings took place whenever it was considered necessary. In this regard, before the implementation of the ICE Directive the interviewees confirmed that in March 2005 the issue was discussed and a reviewed Constitution Agreement was endorsed and signed by all representatives, but no changes were finally made because there was a consensus that they already complied with the legislation⁴⁷. Moreover, according to the representatives the majority of individual employees do not know much about the legislation, whereas at first it appeared that the management representatives and union stewards have been aware with regard to the ICE Directive. However, it transpired that the chairman of CCC meetings was unsure about the exact date that the ICE Regulations came into force and also it turned out that it was the HR and HSE management teams that initially brought the matter forward for discussion.

There is a well structured network of communication (through the internal website, e-mail reporting, staff newsletters etc) and the chairman always sends an e-mail to all the representatives before the meeting, providing detailed information about it. The main issues included on the agenda (apart from the standard items) on this particular occasion were: review and overview of business/QHSE issues, subgroup updates and HR updates. There was an open climate in the meeting and the employee representatives, in particular, were very forthcoming. This observation was backed up by one employee representative and the trade union official who both noted at interview that the managers are always ready and open to hear any sort of problems.

⁴⁷ Further details are provided in section 5.3.1.

During the meeting, a lot of issues were discussed, some of which were trivial (i.e. the development of a new car parking area, trolleys, payslips etc), whereas others were more critical (i.e. review of business and financial issues, QHSE issues, the forthcoming European works council meeting, the development of the relationship with the other UK site in Manchester, HR issues, appraisal system, maternity and paternity policies/procedures and adoption leave policies/procedures). In addition, matters related to corporate social responsibility, such as blood donation sessions were discussed. Finally, towards the end of the meeting one of the management representatives announced that some changes in the production line were going to be made (including the insertion of a new manual line), adding that the number of temporary manufacturing associates would have to be increased and new working shifts would be assigned for weekends and bank holidays, owing to the increased production levels.

5.4 ICE Regulations: Current Attitudes of Trade Unions, Individual Employees and Management

5.4.1 Employee Involvement Arrangements and Representation Structures

As noted previously, the different culture, history of representation, level of trust and other contextual factors, have affected significantly the climate of employment relations and hence, the way that communication and consultation procedures take place at the two sites. In particular, using the terminology of the relevant literature, the different history or “*historical baggage*” of employee relations (Beaumont et al., 2005: p. 94) has strongly shaped the style of representation structures at the two sites and in fact, both have followed different evolutionary paths.

At the Manchester site, the big upheaval (1994), created a demarcation line between management and direct workers, in relation to consultation and negotiation procedures. With respect to this, unionised employees have been indifferent and in some cases hostile to any new legislative arrangements, because they perceive such initiatives and arrangements as a challenge to their union-based representation structures. This is in line with the arguments and empirical findings of Gollan (2007: p. 95), who stressed that “*the extent of the trade union role appears to be the issue*” in relation to the forms and arrangements for informing and consulting with the

employees. Moreover, everything is formally applied, with consultation and negotiation being carried out through the trade union officials and any other form of representation is considered to be a threat to unionised employees, because they are afraid that such initiatives may undermine their extant negotiation and consultation rights. In this regard, according to the HR manager the trade union officials strongly argued that “...we do not want anything that would circumvent the trade union”.

In general, on both sites, union-based negotiation arrangements have evolved over time and are reported by both management and union representatives to be highly effective, although with there having been some conflict during the 1990s. At the Felixstowe site, there is a hybrid form of union and non-union consultation for all the employees. More specifically, as the HR manager claimed, there is an open culture and high level of trust at this site and on the whole there is not “...the cut and thrust of the trade union and management...”. He also stressed the main role of the CCC meetings, explaining that it is different to that of the trade union negotiation body:

“...we communicate [directly] to everyone...we consult with the representatives and we negotiate with the trade unions...[if the legislation changes and we need to amend our policies] we consult and say ‘this is what we are proposing’...one of the representatives might come back with an alternative way and we discuss it, and we come to an agreement...negotiation is basically where perhaps we have different views [with the trade union officials]...” (HR Manager).

In Manchester, there is clearly only union-based representation for the direct workers. The HR manager provided an explanation for the union’s wary approach towards the setting up of a consultative council or any other form of representation by saying that:

“from the trade union view, setting up anything else apart from the trade union negotiation/consultation machinery would shed the power of their rights...”.

He also attributed the union avoidance to the fear that the influence of union representatives could easily be marginalised through broader forms of representation because:

“they [i.e. the union representatives] are still in line with the blue-collar people...they only discuss with the management and their own representatives...they would not like to sit with other non-union representatives”.

Consequently, from the evidence acquired during the case-study research at the Manchester site, it would appear that setting up anything else apart from trade union negotiation and consultation machinery could engender the sense in trade union officials that their negotiation rights were becoming undermined. That is, under these circumstances and using the arguments of Redfern (2007), unionised employees may be afraid *“...of intrusion on traditional approaches to collective bargaining...”* (p. 293), because union representatives could be forced to relinquish their power in relation to negotiation and consultation rights. As a consequence, there is different machinery for communication and consultation with the union and non-union employees for the Manchester site.

The different style of representation between the two sites was attributed to various factors by the HR manager who argued that:

“both sites have different histories and backgrounds...they have different terms and conditions as well...it is a different culture and set up...different consultation and communication channels, which makes it very interesting...at the Felixstowe site, we have a nice-open culture where everyone works together, but here [in the Manchester site] they are 15-20 years behind [in relation to employee voice mechanisms], because they are still going through the fights and do not have the security that we have at the other site...” (HR Manager).

Similarly, the chairman of the CCC commented on the different: culture, attitudes and employee representation at the Manchester site, noting that:

“...they are very closed because of the hammer and tongs with the union in the past...they are not interested in anything aside their site! Personally, I am not much interested in anything aside from my site here unless it is going to have an effect. Because, at the end of the day, I am looking after the employees here... But you have got to have a view of what it is going on at the other site...” (Employee Representative - Chairman of the Consultative Council).

5.4.2 Benefits and Problems of Sustaining the Information and Consultation Arrangements

It is evident that management has been quite forthcoming in relation to the development of information exchange and consultation with employees. This has been especially the case at the Felixstowe site, where there is a very open culture that has been evolving strongly since 1998 and in which management has generally been seeking to encourage an open door policy involving an informal approach. However, even though in both cases the employer has chosen to implement a high road approach, as termed by Dundon et al. (2006), in relation to employee voice mechanisms, the outcomes have actually been quite different at the two sites. In this regard, at Felixstowe this approach has been largely successful, in that there is:

“...a mix of direct and representative mechanisms suited to a given organisational context, encouraging both information and consultation; [these mechanisms are] broad in scope and would facilitate employee cooperation as well as the opportunity to question management decisions and shape the agenda for employee voice...” (ibid: p. 508).

By contrast, the features of a low road approach are more evident at the Manchester site, as there inadequate representation structures for the non-unionised employees. In particular, these features are evident for the indirect workers and the rest of the staff, where *“...mechanisms would tend to be direct, limited in terms of scope and geared more towards information than consultation...”* (ibid).

At the Felixstowe site, both the employee representatives and trade union officials have positive perceptions about: the CCC meetings, the climate regarding employee relations and the attitude of management. In particular, according to the chairman of the CCC, *“management is very dedicated to our site”*. Similarly, all the interviewees confirmed that the consultation arrangement has further empowered employee voice and enhanced the sense of ownership/partnership amongst employees. The chairman of the committee also added that for some employees there had been the sense of there being a wall between management, on the one side, and employees/unions on the other side, with these people *“paying lip service”* to the *“attitude”* of *“us and them”*. However, in his opinion, the CCC meetings are now helping people to be more open

and forthcoming with their opinions, which are subsequently weakening the earlier negative attitudes.

However, there is still evidence that some employees consider that these meetings are not very effective. For instance, the chairman gave an example where the manufacturing associates asked for a change in the shift cover and shutdown weeks during the summer vacation, but management said this was impossible and consequently, some of the employees in relation to the CCC *“think that it is a waste of time”* (Chairman of CCC meeting). But overall, both the chairman and the trade union official stressed their opinion that employees’ views are heard, they are actively involved in decision making and that the level of their influence depends on the nature of topic. This was additionally confirmed by the HSE manager who added that depending on the nature of the issue:

“...employees are normally involved in putting plans into place and their involvement in the planning stage can be important before final decisions are taken...”.

As was argued by all the interviewees, the perceptions of management and employee representatives, in relation to the effectiveness of the CCC meetings and power of employee voice, are positive. In the eyes of the HR manager, the main benefits of: informing, communicating and consulting in the workplace, are related to the sense that the employees have the opportunity to air their views. In support of this, during the CCC meeting (on 11th May 2006), everyone was very open and this was obviously helping to empower employee voice in that workplace. In addition, the HSE manager emphasised the benefits of the CCC forum, in particular pointing out that:

“it provides ‘a shared vision’, enhances mutual trust and confidence, ensures the timely actioning of what has been agreed and discussed in a transparent way and demonstrates to all employees that representatives views are heard” (HSE Manager).

Both the chairman of CCC meeting and the trade union representative confirmed that the council has further empowered employee voice and also enhanced the sense of ownership/partnership amongst employees. More specifically, the chairman highlighted the fact that at the Felixstowe site there is a very open culture which has

strongly evolved since 1998 and added that “...*the fact that the company’s council works here, it adds to the open culture...*”.

In general, there were positive perceptions expressed by all the interviewees about the CCC meetings and the current information and consultation arrangements. This can be attributed to the fact that the evidence shows that management on the Felixstowe site places great emphasis on giving employees a ‘greater say and voice’ in order to meet their expectations and to fulfil union demands. Therefore, taking into account the argument of Gollan (2006b) that there should be “*an alignment of interests between employee behaviour and organisational goals*” (p. 645), it would appear that the CCC meetings are effectively working towards this goal. Moreover, this positive perception can be also attributed to the current good business conditions, and according to the HR manager, “...*the business has been growing since 1998...without any major problems...*”. This is in line with the argument of Gollan (2006b) in which various contextual factors can have an influence upon arrangements. In particular:

“in ‘good times’, when economic and market conditions are positive, information is provided on large profits and subsequent prospects of wage increases, perceptions of information and effective voice would rise” (p. 646).

By contrast, when there are constraints, such as: profit pressures, cost cutting and restructuring, employee representatives and management can be in an “*adversarial struggle*” (HR Manager), and under these conditions evidence from other research projects similarly indicates that “*the information that the company is providing is almost uniformly unwelcome*” (Gollan, 2006b: p.646). In addition, it is argued that there is a tendency for management to be less forthcoming in the development of information exchange and consultation when “*having to deal with tough and unpalatable issues*” (Terry, 1999: p. 27). Within the context of the case-study organisation, both sites had to deal with such serious constraints and redundancy actions during the 1990s, but the implications in relation to the information, communication and consultation’ mechanisms differed significantly between the two sites.

Furthermore, the HR manager emphasised that the setting up of the CCC helped the company to “*move from the confrontational style of management*” (due to the redundancies) and “*come closer into the partnership*”, because “*...it was a very energised and happy time...people were being trained...they were secure in their jobs [and] business was growing...*”. In addition, it has also helped to create:

“a ‘reality check’ ... where the union and employees have their own role and management has its own role ... with a mutual respect, where anybody can work together for the benefit of everyone...” (HR Manager).

Similarly, the HSE manager argued that it is an important vehicle, because it gives the opportunity to communicate important issues in a timely manner and helps to facilitate decision-making. The role and usefulness of the CCC meetings were also highlighted by the trade union representative and chairman, with the former stating that:

“...we do not have to go through many channels of communication in order to get heard, and within the council hall we have ‘them’ [i.e. the management], we have ‘cut the ladder!’...if anything directly affects the employees, they [the management] do take it into consideration...if something can be done, they would take action about it...otherwise, they may set up a different committee [i.e. sub-group] to look into that...” (Trade Union Representative).

and the latter reporting:

“... you can ask people questions, make suggestions to anyone, comment anything...I see the openness and know actually how the business is doing...everything is very open, there is an agenda...and employees’ views are aired...it is an open forum, where anyone can come and sit in the meeting, ask anything that they would like to ask and get the reply...we have also the subgroups” (Employee Representative - Chairman of the Consultative Council).

Another positive example given by the chairman was the change in relation to job evaluation, where a group was formed from the different organisational areas in order to formulate an improved procedure for the assessment of workers on the shop floor.

As a result, there was active participation in the decision making by the workers' representatives about an issue that directly affected them. This sort of active participation was also confirmed by the trade union representative who added that: *"...if you have got anything to say, you do not fear to ask a question...it is an open atmosphere, you can get your and other people's opinion out..."*.

Therefore, the purpose of the CCC meetings is in accordance with the British government's consultation article on the ICE Regulations (DTI, 2003a), which stresses the positive correlation between employee participation and higher levels of performance. From the theoretical standpoint, this has been termed: an *"integrated approach"*, *"high involvement management"*, or *"high commitment management"* (Gollan, 2006a: p. 429). In addition, it is argued that through better communication and consultation between management and employees, these management approaches can: achieve a better climate in employee relations, enhance organisational performance and increase profitability (Wall and Wood, 2005). These goals can also be reached by other methods, such as team-working, where there is: minimal status differentiation and a strong consensus for co-operation aimed at achieving employee satisfaction, through a commitment by management to support effective employee participation processes (Guest and Peccei, 1998). In addition, drawing on the view of Pyman et al. (2006), an effective management strategy should focus on the development of *"...organisational commitment through legitimate and effective participative decision-making and consultation procedures..."* (p. 547). In terms of specifics, in case-study one the management strategy would appear to have involved the above approach, but there have been different outcomes between the two sites, which can be mainly attributed to the different employee voice history and the forms of representation structures that have evolved.

5.4.3 Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing

It is noteworthy that the HR manager pointed out the significant influence that the EU directives have had in the past:

"...the European directives probably changed some of the things we are doing... for instance, we say in our meetings: 'well, we have just put a policy change because it is

the law... this is legal now...we have to consult, inform and make sure that the people are aware'...".

Regarding the level of awareness in relation to the ICE Regulations, this emerged as being fairly comprehensive for all the interviewees and amongst the: management, employee and union representatives who attended the observed council meeting that is described above. The ICE Directive was tabled by the HR department as an issue for discussion and review in one of the CCC meetings, but it was not considered necessary to make any changes (further details are provided in section 5.3.1). Moreover, both the chairman and trade union representative confirmed that any regulation that could directly affect the employees is always brought onto the agenda of the CCC meetings. In terms of the shop floor workers, it was reported by their representatives that about 50 per cent knew something about the ICE Regulations, but generally not in any great depth and also, according to the chairman of the CCC, a fair proportion of them were quite satisfied with the way that the meetings work. Furthermore, it transpired that management, employee and union representatives believed that after review the constitution was consistent with the PEA for the Felixstowe site and therefore needed no amendments.

Whether or not the constitution of the CCC formally meets the legal requirements of a PEA (which was reviewed before the implementation of the legislation at the Felixstowe site), at the time of empirical research, the positive perceptions of the employees regarding the existing arrangements meant that they felt there was no need to trigger negotiations for amendments to these agreements. In addition, the review of the Constitution Agreement and its acceptance by the employees, served to reinforce the current arrangements, in that it enabled the company to establish information and consultation mechanisms according to its needs, with there being little likelihood of any challenge towards these arrangements or any attempt of invoking the statutory provisions of the legislation by any section of the workforce. The overall result has been that the ICE Regulations have not prompted any changes, either in the Constitution Agreement of the CCC at the Felixstowe site, or in unionised representation structure at both sites.

The company is a good example of one where proactive management strategies were implemented before the ICE Regulations came into force. In this regard, the HR manager, when referring to the legislation, claimed that the company was already ahead of it:

“...we have the machinery...the forums to communicate the legislation...so, we do not wait for the employees to come and tell us, we actually tell them ...we are upfront...”
(HR Manager).

The chairman also underlined the contribution of the management team to the development of the CCC meetings, pointing out that:

“...they wanted to have it; so, basically it was pushed by management not the employees; they came to employees saying that they wanted to achieve consultation, communication and information-sharing...” (Employee Representative - Chairman of the Consultative Council).

The company also abides with the guidelines published by ACAS (2005) and EEF (2005), which encourage employers to be proactive and thus it can be seen to have adopted the compliance approach, as coined by Hall (2006). However, consistent with the arguments of Dundon et al. (2006) and Gollan (2006b), the outcomes at the two sites have been different, because of the diverse mix of external and internal factors (i.e. business and economic pressures, management and employee attitudes, union demands, employee expectations or other contextual conditions). Moreover, these varying outcomes have influenced the *“contemporary perceptions”* (as similarly suggested by Beaumont et al., 2005: p. 94) of all the partners and thus the way that employee voice mechanisms and representation structures have developed, to date, at both sites. For instance, the case of the Manchester site conforms to the research findings of other projects in which trade union approaches to the ICE Directive have tended to be *“defensive”* rather than *“proactive”* (Hall, 2005a: p. 17).

As it is mentioned in section 5.1.2, the main driver for setting up the CCC meetings was the EU directives on collective redundancies, which were introduced by the British government in 1996 and 1998. In line with the arguments of Ramsey (1997),

the evidence from case-study one shows how management used the meetings in order to make employees more receptive to changes as a result of economic and financial difficulties, which had led to redundancy activity. As the HR manager suggested, the setting up of the CCC meetings helped the company to move away from the confrontational relationship (between management, employees and union representatives) towards a partnership agreement, where the forms of employee information and consultation are more collectivist. In particular, according to the HR manager, the Constitution Agreement has been an “*evolution process*” with the active participation of both management and employee representatives, where all the employees are working and developing things together rather than management simply “...*bringing a model and just planting or imposing it...*”. He also added that, generally, by working with all the employees in the development of the procedures (such as information and consultation arrangements) and involving them in any improvements, they can get ownership, because they are part of the evolution process. In his own words:

“...all we can do is to prepare the machinery and periodically listen to feedback about what people want to be informed and consulted...by involving people in these procedures, you help them to get the feeling of ownership...” (HR Manager).

With reference to the academic literature, this situation represents, both politically and practically, a convergence of interests and a desire for co-operation (Stuart and Martinez-Lucio, 2005).

It is worth mentioning that the HR manager underlined, as another important element, the involvement of ACAS in the site employee voice arrangements, which as a neutral body went through the Constitution Agreement and this promoted the feeling that the change was not imposed by the management, but it was for the benefit of all the employees. In addition, this manager stressed the beneficial role of Investors in People, in that it gave the opportunity for the majority of employees to express their opinions about: management issues, training and development. Similarly, the chairman also stressed the involvement of ACAS in the development of the constitution, stating that:

“it was positive, open and held very well in that respect. [...] We had ACAS within our group, providing training for the constitution and the makings of the council”
(Employee Representative – Chairman of the Consultative Council).

According to the description in the British government’s consultation document, it could be suggested that the company developed *“its own arrangements tailored to its particular circumstances, through voluntary agreements”* (DTI 2003a: p. 5). Moreover, taking into consideration the review of the Constitution Agreement at the beginning of 2005 and the employment history of the organisation, it can be argued that there has been consistent development of organisation specific information and consultation arrangements that have been primarily based on ad hoc temporary business needs (e.g. collective redundancies). In terms of the relevant literature, the impact of the ICE Regulations for this firm can be explained as having been consistent with the conceptual framework of *“legislatively prompted voluntarism”* (Hall and Terry, 2004: p. 226). In this regard, the HR manager contended that it is good to have this legislation, because it can force companies to have specific procedures and yet in most cases will not lead to big changes because:

“most of the big companies [may] already comply to this – especially the unionised – they should see it as a ‘positive thing’ and they may be proactively doing this...” (HR Manager).

5.4.4 Evaluation of the ICE Regulations: Limitations and Challenges

At the Felixstowe site, apart from the fact that some employees may still have the attitude of *“us and them”* in relation to management or are concerned that the council meeting may be *“a waste of time”*, no other significant problems or complaints were mentioned. However, as it appears from the constitution document (which is briefly outlined in table 5.2, in section 5.3.2), for collective bargaining issues (including distributive issues, such as: pay and terms and conditions), the management prerogative provides a strictly limited scope regarding the opportunities for: consultation, reviewing and negotiation. More specifically, according to the Constitution Agreement document, the CCC is not a negotiation forum and all collective bargaining issues and negotiation procedures are to be brought up in a separate forum, as defined in the trade union recognition agreement.

It is a fact that there is no definite provision of any negotiation and co-determination rights in the Constitution Agreement. Furthermore, it is questionable to what extent the employee and union representatives can challenge management prerogative and decision-making within the context of the CCC Constitution Agreement. In other words, the primary features of the CCC would appear to conform to the concept of pseudo-consultation. That is, there is no explicit and definite reference to “*consultation with a view to reaching an agreement*” as defined in the standard and default provisions of the ICE Regulations (Hall, 2005b: p. 112). On the other hand, the agreement defines consultation as a process by which management and employees seek “...*acceptable solutions to issues through genuine exchange of views and information...*” (further details are provided in section 5.3.1). In general, a number of academics have pointed out that negotiating and bargaining are problematic, in that it is the level of strength that the employee representatives are able to exert that determines their effectiveness and degree of their influence over decision-making and not simply any statutory arrangement (Upchurch et al., 2006; Terry, 1999 and 2003; Gollan, 2000; Lloyd, 2001).

On both sites, only the direct workers are covered under a trade union recognition agreement, and consultation and negotiation procedures mainly take place through meetings between: the union representatives, the HR manager and manufacturing management. Under these circumstances, the management prerogative can be more effectively challenged as union representatives have a greater influence in the decision-making process. However, at the Manchester site the administrative staff and indirect workers are directly informed and consulted without there being any formal process of collective representation, but there is an open door policy with management for these staff and any issue can be discussed on informal basis. Taking in conjunction the academic literature and the arguments of HR manager, the empirical findings indicate that the “*history of antipathy*” towards the company’s council “*for fear of intrusion on traditional approaches to collective bargaining*” (Redfern, 2007: p. 293), has led to the refusal of the local GMB union representatives to accept any form of change to the forms of representation (apart from the union-based arrangements for information-sharing, communication, consultation and negotiation, with the seven or eight trade union officials) during the last 20 years.

Taking into consideration the empirical findings from other research projects (Kelly, 1998), the: adversarial employee relations, industrial conflicts and grievance procedures, faced by the company in the 1990s, would seem to have further stimulated the employees' perceived need for collective representation and organised action through their GMB union representatives at the Manchester site. Using the terminology of Hall (2006: p. 470), such attitudes and perceptions can be described as a "*reflection of trade unions' ambivalence towards the Regulations and their priority of protecting existing union-based arrangements*". This contrasts with the fact that the TUC and other trade unions, including Amicus, have been encouraging employees to submit requests and trigger statutory negotiation procedures for new arrangements in accordance with the ICE Regulations.

In other words, the evidence indicates that the senior shop floor representatives from the GMB union have been trying to avoid the "*substitution effect*", which is commonly described in the literature (Dundon et al., 2006: p. 498). More specifically, it is contested that these forms are set up so as to exclude trade union representation in preference to non-unionised employee councils (Dundon and Rollinson, 2004; Gollan, 2002), thereby neutralising and/or marginalising union involvement (cited in Watling and Snook, 2003: pp. 268-269). In addition, "*employer-initiated structures*" (Bonner and Gollan, 2005: p. 241) may not provide effective employee voice, especially if they focus on worker co-operation that attempts to by-pass trade unions (Kelly, 1996; Lloyd, 2001), which as other research evidence suggests may potentially undermine the unions' power and their negotiation or consultation rights (e.g. Cully et al., 1999; Brewster et al., 2007a). Thus, employer initiated councils have been characterised by some scholars as "*cosmetic...fig-leaves of consultation and participation masking managerial unilateralism*" (Terry, 1999: p.16) and "*symbolic*" (Wills, 2000: p. 88), because they are perceived as a management strategy to circumvent the influence of trade unions.

Therefore, the attitude expressed by union representatives from the GMB can be attributed to their concern that the employer could set up alternative forms of representation (i.e. consultative councils) with limited or no power of negotiation. More specifically, there is criticism of this sort of employee representation by many academics because it does not provide '*bargaining power*' and there is great scope in

terms of the action that employers can resort to regarding the ‘*final decision-making*’ (Charlwood and Terry, 2007: p. 322). This interpretation was backed up by the HR manager, as discussed in section 5.4.1, where he emphasised the reluctance of the union representatives to relinquish any of their extant power to new forms of employee voice. Furthermore, the union’s scepticism is in line with Hall’s (2006: p. 466) findings that union-based arrangements are easily undermined and hence there is an overall scepticism towards any employer initiated change:

“...there is considerable degree of union ambivalence about organisational implications [towards the implementation of ‘information and consultation’ regulations], especially for unionised workplaces. Unions have tended to take a primarily defensive stance towards the new legislation, reflecting concern that the introduction of workforce-wide information and consultation arrangements could potentially threaten union-based representation where it exists...”

Given the above, it is perhaps not surprising that the GMB union executives initially stressed their concerns about the ICE Regulations (TUC, 2004) and this could well have influenced the proceedings in Manchester.

Currently, it appears unlikely that the non-unionised employees would trigger the regulatory statutory procedures, because according to the HR manager they are content with the existing informal arrangements of direct information and consultation. Moreover, the minimal legal prerequisite (10 per cent threshold for the workforce) for triggering the statutory negotiation procedures is an additional barrier for the: indirect workers, administrative staff and rest of the non-union employees, as the evidence from the case-study shows that they lack the communication avenues for instigating any challenge to the status quo. This is consistent with the literature, in which it has been suggested that the insufficient current formal systems in relation to employee voice mechanisms may “*prove problematic to identify the individuals necessary to articulate the case of representation*” (Hall and Terry, 2004: p. 221).

As a result, serious questions can be raised about whether there is full compliance with the requirements of the legislation at the Manchester site. That is, the lack of formal representation (for the indirect workers and rest of the staff) may mean that the

current arrangements do not fulfil the provisions of the article 2 of the ICE Directive, which defines “*information and consultation as procedures taking place between the employer and employee representatives*” (Hall, 2005b: p. 114). Moreover, it is important that any form of employee voice mechanism should be collective and independent in order to be effective, otherwise trade union representation is the best alternative (Freeman and Medoff, 1984; Upchurch et al., 2006), and this would appear to be the case at the Manchester site at the time of the research. Further, even though there is recognition of the GMB and thus trade union representation, this does not meet the requirements of the legislation, because the requirement is that all employees should be covered, rather than there only being a representative body “*for one section of the workforce*” (as similarly suggested by Gollan, 2006b: p. 642). The possible non-compliance of the Manchester site with the provisions of the ICE Regulations was also recognised by the HR manager:

“I am not sure if in the Manchester site we actually comply to the legislation; however, I have learned that it is better to work and develop things with your employees together rather than trying to impose something [such as new ‘information and consultation arrangements’]...so, if it works, do not try to fix it! I am not sure that the legislation is thought through very well [for such instance]...” (HR Manager).

In addition, there is an obvious lack of communication and interaction between the employee representatives (including the local trade union officials) from the two sites, which has been one reason for the distinct forms of employee voice and representation that have developed. Moreover, and perhaps more importantly the fact that these two sites were actually two different companies before the beginning of 1990s can explain their different employee representation trajectories. At the Manchester site, when management tried to bring the issue of reviewing the information and consultation arrangements before the trade union representatives, so as to be seen to comply with the implementation of the legislation, these representatives were reluctant to make any amendments. In fact, their attitude was decidedly negative and instead they reasserted their adherence to the union-based arrangements, by stressing that the “*...trade union is the boss...*” (HR Manager). This attitude demonstrates their strong reliance upon the collective rights of the extant negotiation forum and consequently their indifference to any other form of representation (e.g. consultative council) that can be

considered as providing relatively inferior rights. Nevertheless, according to the HR manager, the management team still has the ultimate goal of setting up a wider council similar to that at the Felixstowe site.

However, as it was previously noted, the avoidance by the regional trade union officials can be mainly attributed to the fear that any review of the arrangements could weaken their role in relation to their consultation and negotiation rights and thereby strengthen management's prerogative in the decision-making process. This argument is further confirmed in terms of the outcomes of a research project carried out by Hall et al. (2007), who suggest that "*sometimes the line between negotiation on pay and consultation over payment systems is hard to draw*" (p. 74), whilst unions may see consultation forums "*as a threat to their existing collective bargaining rights*" (p. 73). Furthermore, as other researchers point out, union representatives are likely to fear that they will lose their "*autonomy*" and "*be more closely [tied] to managerial agendas*" (Brewster et al., 2007a: p. 55). It is worth mentioning that the ICE Regulations do not explicitly provide specific statutory rights to unions and this partially explains the union representatives' sceptical attitude; a position also recognised by Lorber (2006). This has prompted Hall (2006: p. 460) to contend that "*unions have been 'written out of the script' as far as the standard information and consultation provisions are concerned*".

5.4.5 The Importance and Influence of Trade Union Strategies in the Development of Information and Consultation Arrangements

In relation to the relevant literature, it would appear that the notion of partnership is in the process of being developed at the Felixstowe site (at the time of research), where there is mutuality in employee voice mechanisms and employment relations appear to be co-operative (similarly cited in Dundon et al., 2004: p. 1153). However, this is less apparent at the Manchester site, where union members appear to be alienated from any potential partnership agreement, because as previous research results suggest this is perceived as potentially weakening trade union influence and worsening terms and conditions (e.g. D'Art and Turner, 2005; Geary and Roche, 2003; Kelly, 2005; Oxenbridge and Brown, 2004).

Both management and union representatives are content with the current form of employee voice at the Manchester site and they believe that there is no satisfactory alternative. Moreover, the main features of the current arrangements on this site fit with the “*incorporationist*” organisational type, as similarly defined by Dundon et al. (2006: p. 499), which are based on single union-management channels involving collectivist (union) forums that run alongside direct information and consultation mechanisms. Any attempts from the management side to introduce reviews or minor changes, even those that are in accordance with the legislation, are not generally welcomed by senior trade union representatives. This attitude can be explained by the fact that:

“you have to set the culture and trust...develop the consultation, and communication procedures...and build on this over a period of time rather than trying to impose something[...]. So, evolution not revolution!” (HR manager).

Relevant empirical findings, as illustrated by Bonner and Gollan (2005: p. 253), similarly reveal that “*...representative structures within firms need to have the full support of the majority of employees and be seen as organic to the workplace rather than an imposed arrangement between management and trade unions...*”. In sum, the different style of employee representation between the two sites can be attributed to the variance in the perceptions of management and employees about the effectiveness of these representation mechanisms and to the different levels of trust that exist.

In addition, Marchington et al. (2001) argue that organisational culture, historical attitude and other events, in relation to employee voice mechanisms and representation, are significant factors. In this regard, as it has been already noted, the diverse mix of contextual conditions (i.e. business and economic pressures, management and employee attitudes, union demands, different strategies between the union representatives across the two sites etc) have led to different outcomes among the two sites, in relation to: management strategies, employee perceptions regarding information and consultation arrangements, general attitudes about employee involvement techniques and representation structures.

In line with the arguments of Gollan et al. (2006: pp. 505-506), it appears that other contextual unionised conditions can influence the effectiveness of union-based arrangements, such as: the “*legitimacy*” and “*effectiveness*” of unions in the representation of “*employees’ interests*”, and also their “*perceived*” ability by the workforce to “*act independently*”. With respect to this, the openness of Amicus and TGWU representatives at the Felixstowe site enabled all parties to implement legally the CCC Constitution Agreement that consequently provides evidence to confirm the rationale that “*Amicus is among the most active unions on the issue of information and consultation*” (Hall, 2006: p. 467). On the other hand, the GMB union has officially expressed its concerns about the ICE Regulations (TUC, 2004) and this partially could explain the reserved attitude of union representatives at the Manchester site.

5.5 ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces.

Discussion and Summary

5.5.1 The Manchester Site

As suggested by academics, significant “*in-company events*” that are triggered by internal or external pressures (Hall, 2006: p. 461), such as collective redundancies (i.e. business and economic conditions etc), can potentially affect the mechanisms of employee voice and hence the information and consultation arrangements. Such events could well be the driver that affects the style of representation at the Manchester site in future years, which is a view supported by the HR manager. More specifically, he provided one example which could engender significant change in relation to the forms of non-union-based representation at the Manchester site:

“...I think that...if we had redundancies here, which we have not had for many years, maybe that would be the start of some form of elected representatives ...and maybe this would be the precipitation of setting up some sort of formal group...” (HR Manager).

According to the legal requirements, a representative forum must be set up that will cover all the employees, rather than there being just an indirect voice mechanism for a proportion of employees (i.e. the unionised workforce). However, as noted in the

previous sections, at the time that fieldwork was conducted, there was a reluctance on the part of the GMB union representatives, coupled with indifference from the non-unionised employees, for there to be any review of or amendments to the existing information and consultation arrangements, which subsequently rendered it unlikely that there would be any changes in the near future at this site. In particular, this can be attributed to the lack of any strong coordination between the direct workers and the rest of the employees. In addition, other factors that are hindering any potential changes include the established tradition of informal direct voice mechanisms for the non-unionised employees and the reluctance of the union officials to take part in a forum with non-unionised representatives or even to cooperate with non-unionised employees in any way. In this regard, Beaumont and Hunter (2007: p. 1235) argue that union representatives may be reluctant to accept non-union representation, because the former adopt the view that the latter are “*weak in their dealings with management*”. Hall (2006: p. 461) also suggests that in such cases it can be difficult to “*organise an employee request*” in relation to the threshold requirements contained in the ICE Directive.

As was highlighted in previous sections, the scepticism of union representatives mainly stems from their fear of the substitution effect, through which their role could be eliminated or at least curtailed. That is, as has been pointed out in the literature, management may follow “*a covert employee relations strategy*” by: enhancing non-unionised structures (Watling and Snook, 2003: p. 268), preventing the strong development of union’s presence (Gollan and Wilkinson, 2007; Terry, 2003; Ramsey, 1997), and marginalising the influence of union representatives by establishing broader forms of consultation with the employees (Hall, 2006). Moreover, the ICE Regulations do not provide additional consultation and negotiation rights to the union representatives and it is argued that they actually provide “*much scope for management unilateralism or inaction*” (Tailby et al, 2007: p. 211), which may pose “*a threat to the survival of a single-channel of trade union representation*” in the workplace (Tailby and Winchester, 2005: p. 447).

Consistent with much of the academic literature, the evidence suggests that the ICE Regulations are making no difference to the unionised workforce at the Manchester site, owing to their “*minimalist provisions*” (Gollan 2006a: p. 432). More

specifically, at the time of the empirical fieldwork the minimal legal threshold was seen as being an additional barrier, for it was considered unlikely that 10 per cent of the workforce would take the initiative to trigger the statutory negotiations. Furthermore, at the time of the case-study research, according to the HR manager, any initiative in relation to changes (regarding any type of employee voice mechanisms) was considered to be highly improbable. On the other hand, he did indicate that a wider company council could be set up that covers all employees at the Manchester site, as soon as: trust, co-operation, honesty and notion of partnership were allowed to develop. In particular, in his opinion this would require convincing the regional trade union officials that their negotiation and consultation rights were not being usurped by such action. Hall et al. (2007: p. 74), endorse the feasibility of this perspective, arguing that “*ingenious ways*”⁴⁸ can be found that “*accommodate both union and the employee forum*”. Moreover, according to the HR manager, this could happen, provided that the trade union officials were co-operative and open to any discussion in relation to the potential development of a consultative council for both unionised and non-unionised employees. For in his view:

“...we respect each other’s roles...union has a role, management has a role... there is a mutual respect that we work together for the benefit of everybody...” (HR Manager).

He also emphasised the role of a trade union, which was described as an “*asset*” and “*a part of employee voice process*”, in other words accepting that union officials can give very useful advice on a range of issues. By contrast, information and consultation arrangements can be ineffective in a “*command and control culture*”, where there is no “*consensus to decision making*” (Sisson, 2002: p. 16) and therefore, “*creating and sustaining trust becomes increasingly important*” in order to achieve “*a shared understanding*” of management and all employees’ interests and thus be able to establish acceptable “*ground rules*” to all parties concerned (Beaumont et al., 2005: p. 103).

⁴⁸ According to Hall et al. (2007: p. 74), these “*ingenious ways*” may include: “*... parallel meetings on the same day, joint meetings but with two sets of minutes produced and non-union forum members being asked to leave when negotiating items come up...*”.

Moreover, Hall and Terry (2004: p. 223) suggest that consultation should be extended beyond union-based representation. In this regard, complementary channels of information, communication and consultation for both union and non-union employees can represent a 'best' alternative "*dualistic arrangement*" (Tailby et al., 2007: p. 218) or "*dual track approach*" (Marchington and Wilkinson, 2005b: p. 417), which comes within the statutory requirements of the legislation. Given the threshold of 10 per cent for triggering negotiations, it is not overly "*insurmountable*" (Hall, 2006: p. 471) for employees to call for the establishment of new arrangements or even require the development of customised forms of representation. There is much evidence from this particular case-study that the management team appears to be quite open to the setting up of consultative councils. In sum, assuming that there is an agreement to set up a wider information and consultation forum that will cover all the employees in the Manchester site, this could require the establishment of multiple⁴⁹ arrangements or agreements that cover all the employees in both undertakings of the case-study organisation.

As Bonner and Gollan (2005: p. 242) suggest, traditional trade union structures and alternative forms of employee representation can "*complement each other – dovetailing in terms of form and function*", thus consolidating the development of employee voice and the accompanying communication channels and thereby helping to align the interests of: management, all individual employees and union representatives. In general, analysis from the WERS 2004 shows that a "*...hybrid is likely to be the form of representation adopted in many companies that recognise trade unions and are stimulated by the ICE Regulations to extend such rights to non-union employees...*" (Charlwood and Terry, 2007: p. 325). Therefore, taking into consideration the aforementioned arguments, it is suggested that a broader consultation forum, as a representation body for all employees, could operate independently alongside the union forums to enable complete compliance with statutory requirements of the legislation. Moreover, this would potentially fill the representation gap as highlighted in the empirical findings of other researchers (Towers, 1997; Hall and Terry, 2004), by promoting employee voice and democracy

⁴⁹ The DTI Guidance (2006: sections 21 and 22) provides a detailed overview of how multiple arrangements can be set up in one or more undertakings.

for the non-unionised section of workforce, thus reducing the possibility of serious industrial conflict and adversarial employee relations, as occurred in the 1990s.

5.5.2 The Felixstowe site

The unilateral initiative from management representatives to put on the agenda of CCC meetings a review of the Constitution Agreement, so that they could get signed approval from the employee and union representatives before the ICE Regulations came into force, in essence strengthened the pre-established information and consultation arrangements and reduced the possibility that the employees would trigger further negotiations. Consequently, the current voluntary arrangements have been developed and adjusted according to the needs of the establishment. In other words, organisation-specific information and consultation arrangements have been developed that are consistent with the conceptual framework of legislatively prompted voluntarism. Since 1998, the substantial reduction in industrial conflict and a subsequent development of trust have improved employee cooperation, leading to a sense of mutual recognition in relation to the legitimate roles of: management, employee and union representatives (as similarly found in other research projects – e.g. IPA, 1992). The relations between union/non-union employees and management are positive and they have managed to achieve the “*social legitimacy*” of their own roles and activities, as described by Boxall and Purcell (2003: p. 182).

In terms of any future developments regarding the CCC meetings and the overall forms of employee representation, the HR manager claimed that, in general, the mechanisms of employee voice should be based on “*an ongoing continuous improvement*”, so as to counter the claim from some employees that “*management does not tell us everything*”. In this regard, every year there is an employees’ survey which is used as a tool for evaluation and benchmarking of all the company’s procedures. In relation to this, in the opinion of one interviewee:

“...employees want to be consulted but do not want to be seen as the decision maker or responsible for reaching a particular decision...they need to become more forward thinking and not just bring issues to the table...” (HSE Manager).

The chairman of CCC did not identify any specific reasons for changes or amendments and added that “...we do not have any major issues to deal with...there is nothing to fix, and I think it is good...”. However, he did suggest that it would be “worthwhile to have additional training and updates from ACAS” in order to improve the effectiveness of the CCC meetings. Nevertheless, the senior trade union representative stressed that “...the forum does change [through custom and practice]⁵⁰...anyone can bring up a suggestion, if there is a need for a change...”.

On the other hand, it is noteworthy that the Constitution Agreement provides a strictly limited scope for negotiation over any sort of employment issues and collective bargaining issues cannot be brought up in the CCC meetings, being only valid in a separate forum as defined in the trade union recognition agreement. Consequently, union and non-union representatives can face difficulties in addressing collective issues in these CCC meetings and hence there is still a scope for management “manipulation and control”, as similarly found in other research projects (Redfern, 2007: p. 303). However, despite the limited provisions regarding CCC meetings and negotiation rights, there is full compliance with the requirements of the ICE Regulations. Moreover, it is noted by Sisson (2002), and additionally suggested by Geary and Roche (2005: p. 195) that these provisions can enable the company to insulate their information and consultation mechanisms “from the more adversarial tendencies associated with negotiation and collective bargaining”.

In addition, the positive perceptions expressed by all the representatives about the current procedures preclude any possibility for further amendments in the near future. Moreover, although the union-based forum/council provides the only opportunity for negotiation of procedures and discussion in relation to collective issues, the CCC does provide the second channel of a dualistic employee voice mechanism. In sum, the case-study evidence indicates that the existing arrangements have been legally underpinned through the review of the Constitution Agreement and what is more, there is limited spectrum for the employees to trigger further negotiations within the terms of the regulatory procedures. In this regard, the legal requirements of the ICE Regulations denote a relatively high threshold for endorsing negotiations for changes

⁵⁰ In other words, there is a consensus amongst all employees and management representatives in the way that the forum changes. Therefore, the forum evolves through custom and practice.

and improvements, with 40 per cent of employees being the threshold required for a ballot. Taking into consideration that the current voluntary agreements at the Felixstowe site already comply with the legislation and every effort was made to secure employee approval, it is considered very unlikely that either management or the employees will challenge the well-structured and pre-established arrangements in the coming near future.

CHAPTER SIX

CASE-STUDY TWO

6.1 Organisation's Structure and Employee Representation

The second case-study of the research is a retail company with approximately 54,000 employees in Great Britain, and several retail stores. Interviews and visits were conducted in the head office in Somerset (in which approximately 1,000 people are employed) and also in one of the company's depots. The number of employees in the depots is approximately 4,000 to 4,500 and they are located in five different regions. It has to be noted that the company was public (plc) until December 2005. Since then (and at the time of research), the company became private and new directors were recruited.

There is no trade union recognition agreement within the head office, while such agreements only exist in the depot sites where the majority of employees are members of USDAW. In some of them there is also trade union recognition with the TGWU. Research took place in a depot located in Bridgwater, where there are approximately 550 full-time employees, of which approximately 50 to 70 per cent are members of the two aforementioned trade unions. More specifically, there are three different trade union recognition agreements covering three different sections of the workforce. In addition, there are two separate Joint Consultative Committees (JCCs) at the two sites comprising the main councils at the depot, one with USDAW representatives and the other one with members of the TGWU.

6.2 Interviews and Collection of the Qualitative Data

For the purposes of the research, semi-structured interviews were conducted in three subsequent visits to the head office and one visit to the depot and limited access was granted for collection of relevant documentation. More specifically regarding the latter, as already noted, a detailed staff newsletter (including the Constitution Agreement) was provided by the head office and also one signed agreement and minutes from a JCC meeting with USDAW representatives from the depot.

The first interview was conducted in May 2006, with the HR manager at the head office. Two subsequent visits followed in July 2006 and interviews were conducted with the director of finance, and the director of group logistics and IT, again at the head office. Furthermore, four interviews took place with employee representatives from different grades and constituencies (table 6.1 illustrates all the employee representatives that participate as members in the consultative council – those who were interviewed are highlighted and underlined). It is noteworthy that all the interviewees participate in the consultative council and most of them have worked for many years in the organisation. (At the time of research, the HR manager in the head office had worked in the company for 2 years and apparently one of her first initiatives was to set up the Constitution Agreement for the establishment of the consultative council).

Group	Departments Included	A	B	C
1	Buying, Marketing and Merchandising	Buying, B Grade	<u>Buying F Grade</u>	Buying H Grade
2	Central HR, Retail HR and Property, CEO	<u>Property, D Grade</u>	HR, F Grade	HR, H Grade
3	Logistics and Business Systems	Logistics, D Grade	Business Systems, F Grade	Logistics, H Grade
4	Finance	<u>Finance, D Grade</u>	<u>Sales/Ledger Finance, F Grade</u>	Finance, Associate Director
5	Retail Services (Field and Central), CBU, Divisional Executives	Retail Services, C Grade	Security, G Grade	Divisional Executive, H Grade

Table 6.1: Composition of the Participant Representatives on the Consultative Council (Staff Forum) at the Head Office in Somerset (Source: Constitution Agreement Document).

In particular, one representative is a technical manager of non-edible products (F grade – constituency of buying), one is from the constituencies of property management (D grade), and the other two are coming from grades D and F and being employed in the finance department. Three interviews were conducted in the depot in December 2006, these being with: the depot director, the HR manager and one management representative. The HR manager of the depot has worked for many years in the organisation and provided a very good insight into the history of consultation arrangements at these sites. Finally, in March 2007 one of the union representatives from the depot independently filled out an interview schedule, from which it could be

seen that he has a thorough knowledge of the ICE Regulations and he provided valuable insights into the: operation of employee voice mechanisms, consultation arrangements (i.e. JCCs) and the union-based negotiation forums.

6.3 Employee Voice Arrangements

6.3.1 Information and Consultation Arrangements

6.3.1.1 The Head Office in Somerset – Impact of the ICE Regulations

In January 2005, a staff forum was set up in response to the requirements of the ICE Regulations. More specifically, it can be argued that the prime reason for the establishment of the forum was based on the requirements of the legislation on collective redundancies, as prompted by the British government in 1996 and 1998, rather than the general statutory provisions of the ICE Regulations. In this regard, during 2005 and 2006 TUPE scenarios and massive collective redundancies (i.e. 1,000 employees were made redundant) took place, and subsequently, the setting up of a consultative forum became a legal requirement. The HR department was aware that the ICE Regulations were coming into force and well in advance set up the constitution and terms of reference of the staff forum with the help of legal department, in order to secure compliance with the requirements of legislation. In other words, the establishment and development of this forum was predominantly led by management and based on an opportunistic and unitarist initiative, as a result of the necessity for restructuring and collective redundancies. Consequently, this case-study illustrates another example where the features of information and consultation arrangements conform to the concept of legislatively prompted voluntarism. All the employees were notified through an email about the setting up of the forum and nominations for volunteers were invited from all the constituencies.

Elections for the employee representatives took place in autumn 2004. Once the forum was formed, there was a provision of training for two to three days so that employee representatives could develop the ability to communicate and interact effectively in the meetings. Furthermore, during the first meetings an external speaker was invited to give advice about the protocols in relation to the redundancies.

“The staff forum made aware of it [i.e. the ICE Regulations]. We had a date with a legal counsellor. We were made aware of certain items. If we need to make a decision on something, the company always makes sure that we have got the training to make the decision. We had [someone] from a legal consultancy firm that gave us a day’s education on certain part of issues [sic] that we needed to know about. The company would not let us to make decisions [by ourselves] [sic] if we were not properly informed about the legalities...especially around the redundancies and legal [employee] rights...” (Employee Representative – D Grade – Constituency of Finance).

“We did have a training session about restructuring and difference between inform and consult... And then obviously, the differences between redundancy, outsourcing, TUPE... We had a day long session going through all that... [There] was an external solicitor that came in. It is good for an external to come in rather than someone from here [and] trying to steer us [sic] into their own way of thinking” (Employee Representative – D Grade – Constituency of Property Management).

The main function of the current forum is to *“consult with the employee representatives and give feedback to the directors”* (HR manager at the head office). Previously, there were some forms of information-provision, but there were difficulties in consulting with the employees. More specifically, in 2003 a consultative group was set up. However, as the HR manager noted, *“the experience has shown that they [i.e. consultative groups] were not meaningful”* and people tended to discuss trivial issues and ignored *“issues of high levels”*.

There is a regular provision of training in the process of consultation, which is also included on the company’s internal website. It is also worth mentioning that employee attitude surveys normally take place and subsequently are being discussed as part of ‘Viewpoint’ sessions. The management unilaterally established the staff forum in 2003 and this possibly led to employee indifference, which resulted in there being a number of unfilled vacancies for employee representatives. As a consequence, the consultative forum was largely ineffective and the incidence of non-participation further exacerbated the knowledge gap that already existed amongst the employees. Finally, one further weakness was the complete absence of the involvement of outside officials or advisors in setting up of the forum that was actually being solely developed by the HR and legal departments.

6.3.1.2 Consultation and Negotiation Union-Based Arrangements at the Depot Sites in Bridgwater

Research took place in one of the company's depots in Bridgwater, which consists of two sites. Until 2001, one site was separate and run by a third party and it had a trade union recognition agreement with the TGWU. Since then, both sites have become part of the same undertaking, but they are jointly run by the same third party. Employee voice mechanisms have emerged through composites and hence are quite sophisticatedly structured. More specifically, there are three different union forums with representatives from the TGWU and USDAW, along with three separate trade union recognition agreements and two JCCs across the two sites. In particular, the general manager described the union activity of USDAW as very strong and closely compliant with the negotiation procedures.

6.3.2 The Composition of the Staff Council at the Head Office in Somerset

As previously highlighted (in section 6.2), approximately 20 people (managers, directors and 15 employee representatives from various departments) participate in the staff forum and there is a two year rotation in terms of membership. It was agreed by all parties that the forum meetings were normally to be held two times per year, but during the first year of its operation they were more regular, because the organisation had to deal with a redundancy situation. There are five departments/constituencies in the company which are all represented in the forum, these being:

- Buying, marketing and merchandising
- Central HR, retail HR and property, CEO
- Logistics and business systems
- Finance
- Retail services (field and central), CBU (Convenience Business Unit), DE's.

Employees are classified in different categories, such as:

- A-D grade representatives
- E-G grade representatives
- H+ grade representatives
- Various directors, executive committees, and the board.

Usually, at least three people represent each constituency across the different grades. In addition, according to their location, there are four different staff forums for the whole company that are denoted in the following way: South, Central and North, and the Support Centre Staff Forum.

6.3.3 Agenda and Issues of Discussion on the Consultative Council at the Head Office in Somerset

The agendas of all meetings are pre-circulated to all members of the staff forum and the main issue for discussion during the early meetings was the take-over process, involving a change of ownership and a redundancy situation. Subsequently, the agenda came to include a wide range of issues that were connected with the company's policies and direction, such as: hours of work, pay and conditions and training and development, but items of trivial importance are avoided wherever possible.

“The staff forum tends to be reserved for more serious or legislative things... [i.e.] for those issues which are more pressing, urgent and have legal consequences for the company...” (Employee Representative – F ‘Buying’ Grade – Technical Manager of non-edible products).

“At the moment, it is purely redundancies and outsourcing... Because we are still going through the restructuring... Everything that we are dealing with [is purely about] people losing their jobs [sic]” (Employee Representative – D Grade – Constituency of Property Management).

Detailed minutes and the staff forum's newsletter from one of the first meetings in June 2005 were collected, in which it emerged that there had been a two day event including a 'familiarisation day' and this was followed by a meeting day comprising six presentations and two discussion sessions. Subsequently, all the representatives participated in communication feedback sessions to discuss the communication process, particularly in relation to staff forum meetings. The representatives were asked for feedback on: the summary of the previous minutes, the contents of the newsletter and the Q&A sessions from the training days and they were also invited to suggest ideas for improving communication mechanisms in the near future. In the

opinion of the HR manager these suggestions could potentially improve the way that communication of key messages would be conveyed in the forum meetings.

The aforementioned communication feedback sessions took place four times, on different dates over a two week period. They were chaired by the HR manager (or an employee relations executive member) and comprised employee representatives and at least one executive committee member. The following items were included in the agenda: “how can we increase sales?”, “provision of executive feedback on the suggestions made by representatives at the January meetings”, “general business update”, “customer feedback presentation”, “ethical trading presentation” (based on the ‘ethical trading initiative’⁵¹) and “viewpoint staff survey results presentation”. Furthermore, there was an update on suggestions from the previous staff forum meetings and presentations with regard to the business update, including corporate priorities and current approaches.

As previously mentioned, the most important issue that was discussed during the first meetings of the staff forum was the conditions of employment within the framework of the redundancy situation. All the relevant information was given to the employee representatives, with the aim of ensuring that the whole procedure was taking place in a fair and transparent way.

6.3.4 Agenda and Issues for Discussion on the Consultative Council at the Depot Sites in Bridgwater⁵²

One of the issues included in the staff forum meetings was the establishment of new technology that would change the way in which one of the sites operated. In fact, management decided to involve employees and invited volunteers to participate in a separate committee in order to discuss this development. The union representatives

⁵¹ The company has been a member of Ethical Trading Initiative (ETI) since it was originally established in 1998. ETI is an independent tripartite organisation and its members include: retailers, manufacturers, importers, non-government organisations, trade union organisations etc, while its objective is better living conditions for workers and their families supplying the UK market. In April 2006, a UK labour bill came into force following recommendations by the ETI.

⁵² Further detailed information, about the level of direct and indirect voice mechanisms at the depot sites, and also the content and issues included in the information-sharing and consultation are provided in the appendices and notes.

were also greatly involved in the negotiation process so that they could achieve a consensus about various working issues, such as: work rates and working practices.

The HR manager for the depot sites provided minutes of the meetings that led to the operative bonus scheme agreement for one of the sites, in Bridgwater, where there is a trade union recognition agreement with USDAW. More specifically, after “*lengthy negotiations*” with the site representatives, it was agreed to introduce, for a trial period, a bonus scheme for all the employees (HR Manager at the Depot Sites). Initially, in June 2005 the scheme was given a three month trial period with a review at the end, but after the trial the scheme was extended for approximately one year. A final agreement was signed in May 2006, regarding the terms for continuation of the aforementioned scheme in the warehouse and this even covered the non-TUPE operatives. The scheme was devised in order to increase productivity, allow flexibility for the workforce, reward its employees for attaining a minimum productivity standard, and thus, enhance their potential earnings. Furthermore, the scheme and standards are fully in line with all the company’s health and safety compliance requirements and the agreement is reviewed on an annual basis. From a wider perspective, according to the union representative, issues of discussion at the union forum may include: “... *pay bargaining, terms and conditions, disciplinaries, appeals and investigations...and regular updates, meetings and feedback down to the shop-floor...* ”.

An additional item that is normally included on the agenda of JCC meetings is “the non-payment of company sick pay”, which was difficult for the workers’ representatives to understand at first, but after an ACAS course they were able to comprehend better the company’s responsibilities regarding this matter. Other agenda items that have been brought to such meetings are: “protocol for dealing with accidents”, “despatch/clerical issues”, “transport pay negotiations”, and “awards for employees that have a long-service record”, but occasionally discussions have strayed into trivial issues, such as canteen/vending facilities.

6.4 ICE Regulations: Current Attitudes of Trade Unions, Individual Employees and Management

6.4.1 Employee Involvement Arrangements and Representation Structures

The different style of representation between the head office and the depot sites is clearly apparent and this is primarily due to the fact that there is union representation only at the latter, where consultation and negotiation forums are very regularly used as employee involvement mechanisms. Nevertheless, the three distinct trade union recognition agreements with different sections of workforce, in conjunction with the two separate JCCs for the two sites, have made the overall representation structure quite fragmented for the depot sites. More specifically, for practical negotiating and consultative reasons, the union forums are split into three groups. That is, on one site there is a forum for USDAW representatives, whereas at the other there are two further union forums, one for USDAW and another for the TGWU. In other words, the two engaged unions do not “*share a common bargaining unit*” and two distinct union recognition agreements with USDAW apply across the two sites; similar cases are found in other workplaces in the UK (Beaumont and Hunter, 2007: p. 1238).

As with case-study one, the different historical backgrounds of employment relations among the depot sites and head office have shaped their notable variances in representation structures, for as Harney and Dundon (2006) elicit from their research, external and internal conditions can affect the forms of employee voice in the workplace. In this case, regarding the depot sites, these are independently run by a professional third party and this would appear to have had an impact on how consultation arrangements have developed, because this third party was perceived as being more supportive of employee voice mechanisms (HR Manager at the Depot Sites).

The HR manager from the head office put an emphasis on the failure of a previous attempt (2002-03) to set up a consultative group, the perceived reasons for which were taken into account when establishing the current staff forum. More specifically:

“[We] did have some sort of consultation group about three years ago... and it fell into disrepute because they did not discuss issues of high-level [sic]. They [i.e. employee

representatives] started to talk about the paint on the wall and things like that – rather than business results and changes about the plan for the business. [Therefore] we were very clear that we would only discuss strategic issues and business results. [...] We said to the employee representatives: ‘you should stop bringing issues from your own area to a board members meeting – if you have got an issue in your area, talk to your manager about it’... because of the experience before, none of the people from the previous group are on the staff forum now!’ (HR Manager at the Head Office).

The apparent absence of a trade union recognition agreement hindered the establishment of structured representation for employees at the head office prior to the implementation of the ICE Regulations. However, the director of group logistics and IT clearly made the distinction between the role of the staff forum at the head office and trade union forums at the depot sites. More specifically, he argued that the staff forum at the head office is a body or vehicle in which “...*we communicate in a positive sort of environment... but not negotiate...*”.

Furthermore, he added that:

“...a negotiable item would not go through the staff forum particularly, although we would consult... for example, we would do consultation on selection and payment for redundancy when the organisation changes. [However] we would not do negotiation on rates of pay because they [i.e. members of the staff forum] are not there to represent the employees in that way... [the staff forum] is not a substitute for the union... I see it as a vehicle for engagement rather than negotiation... subjects [of discussion] can be many and varied, but they would be more related to the business, [rather than] pure negotiation on terms and conditions, and things like that...”(Group Logistics and IT Director).

At the time of research, employee representatives at the head office underlined clearly the current limited scope of their involvement, stressing the absence of collective bargaining, and the low degree of influence in relation to management’s prerogative. This is similar to the findings of Gollan and Wilkinson (2007a: p. 1138), who have found that consultation mechanisms are usually considered just “...*as a vehicle for communication...*” by managers. In other words, the absence of trade union recognition and the relatively recent establishment of a staff forum do not allow for a

great scope of consultation for employees. Moreover, this forum is predominantly a body of communication with limited influence over decision-making, rather than an instrument of collective consultation and hence features of pseudo-consultation are evident. Furthermore, the representative from the property section emphasised that the forum is more about a one-way rather than a two-way communication process, whilst other employee representatives stressed the actual distinction between consultation and negotiation.

“There is no real aspect of negotiation – not within our experience. We have not been informed to negotiate; we have been informed to be informed! ‘Negotiate’ suggests that you have an equal balance of power... we have not got that...” (Employee Representative – F Grade - Technical Manager of Non-edible Products).

“There is not a lot of involvement... there is a lot of informing. But we tend to get e-mails. We then have team-meetings or departmental meetings for major informing, but other than this, we are not involved in the decision-making process. To be honest, we do not communicate anything back – I do not bring anything into meetings from them. Considering what we had done in the last year, it was just informal meetings really – just telling us about ‘what was happening’...” (Employee Representative – D Grade – Constituency of Property Management).

“[The staff forum] is not for negotiating with people... [we may] try and negotiate company issues but not individual issues...[the staff forum] is not for that sort of level. In the redundancies, there is not a lot in negotiating that we can do, apart from the selection criteria and process. They only have to consult with us – they do not have to agree with us...” (Employee Representative – D Grade – Constituency of Finance).

Therefore, from the responses of the interviewees it is clear that collective negotiation on important issues, such as: pay and conditions, rates of pay and hours of work, is strictly under the remit of the union representatives and thus the staff forum at the head office is mainly a communication and consultation body. In addition, contractual matters, which are related to collective bargaining, rely upon the trade union recognition agreement:

“If we want to change [the contractual] rights and negotiate with [employee representatives], we will do that with the union; if we want to communicate all the changes and bring in all these changes, we will do that through a broader community. We will always recognise the union, but we will have a communication vehicle that does not rely on unions... [in order to] be broader than that...” (Group Logistics and IT Director).

The aforementioned statements indicate that the attitude of the management team in relation to the setting up of the staff forum at the head office was primarily based on their willingness to engage in information-sharing and communication, rather than the engagement of establishing authentic or true consultation. Under these circumstances, the organisation is ensuring the minimal required compliance with the provisions of the legislation regarding the information and consultation arrangements. To underline this perspective, at the depot sites there is a clear reference in the constitution documents that the staff forums and the JCCs are only for: information, communication and consultation and not for collective bargaining and negotiation purposes.

There is no set schedule for regular rotation of the members of the JCCs at the depot sites and thus they can continue to participate in these meetings until they choose not to do so. In addition, the union representatives participate in the staff forums, but they have opted to have separate meetings with management representatives alongside the other forms of representation so as to be able to continue to exercise their rights of negotiation as established under the recognition agreement.

“... we have regular meetings and team briefings for the shop floor... union and management meetings are weekly... health and safety meetings are every four weeks...” (Trade Union Representative).

This also suggests that union representatives are cautious, preferring to retain the power of their collective rights through the negotiation process and within the union forum meetings. This strategy prevents any attempts by management to establish broader forms of consultation, which could undermine the collective negotiation rights of union representatives. In this regard, Hall et al. (2007: p. 74) have pointed

out, with reference to such forms of representation, that companies have been known to devise constructive and “*ingenious ways*” by which they can accommodate both the union collective bargaining and consultation arrangements. The demarcation line between the two JCCs and negotiation forums was emphasised by the director of the depot sites:

“... I meet with the regional organisers, separately... interestingly enough, the shop stewards do not prefer to have regional organisers on the JCC... they would prefer to deal directly with us...” (Depot Director).

Thus, this illustrates another example of the clear separation between consultation and negotiation arrangements. Usually the JCCs comprise 8 to 10 people and the meetings are held two to three times per year, whereas those between management and the trade union representatives take place much more frequently (i.e. every one to three weeks) and are based very much on an open door policy. In general, at these meetings each depot site is represented by three or four union officials and there are three or four managers present.

“You need to have a link between the workforce and management as a company ... It [i.e. JCC] is quite an open forum in terms of people... we rely on the union body – they [i.e. union representatives] come to the table and say what the issues are from the floor. We have got an open-door policy... if there is a big project that goes on, I would see them every week...we meet roughly every 2 weeks...” (Management Representative at the Depot Sites).

The HR manager of the depot sites clearly emphasised the different roles between the JCCs and meetings with the union representatives, pointing out the demarcation line in relation to consultation and negotiation and also the importance of establishing the notion of partnership. She also highlighted the financial difficulties that the company had faced in recent years, which had resulted in re-negotiation of employment issues, such as pay and conditions:

“We consult with pay issues...in the JCCs, there is no negotiation... we have negotiation separately with the union...we tend to work in partnership with the union. We have tried not to make the situation of them and us. I mean the union has got its

own role: in disciplinary [issues], pay negotiations etc. They [i.e. the union representatives] will go for the best deal that they could have – this is what they have got to do, this is why they are here. On the other hand, the company is in a certain financial situation. It cannot afford so much, and then, we have to negotiate [about pay issues, working hours etc]... [afterwards], they [i.e. the union representatives] ballot and members [of trade union] decide...” (HR Manager at the Depot Sites).

Another form of employee involvement is the ‘listening groups’, in which non-union employees from the shop floor and administrative staff participate. The HR manager also made reference to ACAS involvement as an example of assistance in one particular case:

“We did use ACAS for the drivers’ pay negotiations. [Quite a long time ago] the unions were happy, the full-time officials were happy, but the drivers were not – that is when, we involved ACAS”.

Moreover, both the HR manager of the depot and the director of group logistics/IT commented on ACAS involvement:

“Every now and then, [ACAS] do half-day training courses [in order to] get people updated with the employment law changes, and that sort of things... or we would ask them to do a half-day course on disciplinary and grievance procedures” (HR Manager at the Depot Sites).

“Specifically, within the depot sites, we do go to ACAS for mediation and ultimately there could be arbitration, depending on the union agreement. But, we do not like to go for arbitration, because we do not want to get into a ‘win-lose’ [situation]. We are OK with mediation, but not arbitration. [Therefore], we use them [i.e. ACAS] for support when we cannot reach agreement and go to certain level, but we do not use them three months ahead of time for setting directions or strategy – we do not use anybody for doing that, other than our third parties that run the depot sites for us. We would set the strategy, budget and plan for the year, and then we would go ahead and run it” (Group Logistics and IT Director).

6.4.2 Benefits and Problems of Sustaining the Information and Consultation Arrangements

One of the biggest problems that the organisation faced was the establishment of the original consultation forum at the head office, in particular because the employee representatives did not have the necessary consultation skills, a fact that was mentioned by most of the interviewees. In reality, for most of the employee representatives their lack of experience resulted in it being difficult for them to engage in meaningful consultation (especially when the staff forum was novel), rather than simply being informed. The employees showed a great deal of interest in relation to filling the available vacancies on the forum, but as the HR manager pointed out many were not aware that consultation on redundancies could be included as one of the items on agenda and subsequently those on the committee expressed some discomfort at being exposed to this situation once they were elected. More specifically, according to the HR manager at the head office, the employees pointed out that:

“...we did not realise that employee representatives could be consulted on redundancies – if we had, we might have picked up different people”.

This clearly indicates the lack of co-ordination and knowledge amongst the employees so as to ensure that they elected the representatives who could best serve their interests. Furthermore, it shows that the employees did not possess the expertise to take the initiative and request the setting up of a forum, and perhaps more importantly, they did not have sufficient information about the Constitution Agreement and role of the staff forum under the ICE Regulations. According to the HR manager, during the first meetings it was also difficult for the employee representatives just to bring up issues of great importance, because they were under strong pressure from their colleagues to discuss trivial matters. Consequently, further information was sent out to all employees making clear which issues could be included on the agendas of the meetings.

However, the empirical findings indicate that the management representatives were actively engaged in the training process, which was providing the necessary skills and knowledge so as to ensure that the employee representatives were able to participate in the forum effectively. Moreover, it was clearly recognised by both parties that the

whole process involved a steep learning curve, especially because they had to get involved very quickly in crucial issues, such as the impending collective redundancies, as soon as these issues had to be dealt with adequately and fairly.

“I was very pleased that the employee representatives were very open and honest by giving feedback. And the directors appreciated that ... I think that it benefited the company because all these directors did actually change the things that they were doing. This year [i.e. 2006], from a purely legal perspective, it has been very useful to have a group of people who were used to work and have some prior knowledge of the business, and could respond quickly when we had to do redundancy consultation...”
(HR Manager at the Head Office).

“...The more we do, the better we are getting at... [afterwards] we are trying not to waste too much time debating stuff [sic] that we know for a fact that we cannot change...it is a learning curve...[for example], people in the staff forum felt that they could negotiate more about pay...[but] that was not the case, and we obviously learnt from that...” (Employee Representative – D Grade – Constituency of Property Management).

“It always useful for the employees to be kept informed - it adds a sort of security and makes people feel that their views are welcomely received [sic]...the employees like the idea of having someone to represent them and looking after them. On the whole, they are happy that there is someone there fighting for them...they have got a voice to be heard [sic]...” (Employee Representative – D Grade – Constituency of Finance).

Similarly, the director of group logistics and IT emphasised the objectives and benefits of information and consultation mechanisms both at the head office and the depot sites:

“[The staff forum meeting] is led by management team and general manager... it is part of his [i.e. general manager] objectives to improve employee communication...I think [that] the employees have to be a part of the community [and we should] engage them in the long-term... that could hopefully lead ourselves to be ‘differentiated’ [sic] from other companies and thus a further reason why people want to work for us ... we work quite hard particularly in the depots to ‘differentiate’ within the community and within our employees as opposed just paying more money...”

The finance director also expressed his contentment with the establishment of the staff forum at the head office, and also in the other central locations where the rest of the staff forum meetings are held:

“We are pleased of what as a company get out of it [i.e. the staff forum] and as a business improvement. It is having an effect within employees – they feel that they have ‘a say’ and can see changes as a result of what they are saying. We are giving it really good credibility – by turning up and engaging, which shows that actually we are listening and do care. We are dealing with the good practices, and we have to do it”.

He also commented on the change of board directors, which brought a different style of management that involved the initiative by the HR team of establishing the staff forum, and consequently, the benefits that have accrued.

“It [i.e. the staff forum] is definitely changing the way that we work. As a director, I want to know that we have a loyal-committed motivated workforce. [Two years ago there were borders between management and employees]. Today, we have a far more open style of management, which creates a better business environment. We have been pretty open in answering directly to them [i.e. employee representatives], and the hierarchy vanishes [through the staff forums]” (Finance Director at the Head Office).

Since 2001, many changes have also been made at the depot sites. In particular, the two sites were run independently until approximately four years before the conducting of research. However, during 2004 and 2005, management started to implement common practices at both depot sites, in relation to pay-award systems and the set of terms and conditions and these changes took place through negotiations under the union recognition agreement with USDAW. Initially there was resistance to change from the employees and some managers, with employment relations at these sites being described as confrontational and attitudes of ‘us’ against ‘them’ still being prevalent (Depot Director).

The overall purpose of management has been to apply consistent and common practices at both sites and also to build up the notion of a partnership agreement with union representatives. For instance, (as it is already discussed in section 6.3.4) a trial agreement was approved in June 2005 in relation to the bonus scheme. Ultimately,

with respect to this, in May 2006, a reviewed agreement was signed by the regional general manager and senior shop steward of USDAW, which formally sets out the terms for the continuation of the warehouse operative-productivity bonus scheme and these have to be reviewed annually by both the company and union representatives. The HR manager pointed out that the successful implementation of these changes also relies on there being a good relationship with the union. Moreover, she identified important parameters for having a constructive engagement with the trade union, such as: the general beneficial outcomes from the positive climate, the development of trust with the union representatives and all the employees and effectiveness of consultation and negotiation arrangements. In other words, as other researchers strongly suggest, trust is considered to be one of the most “*important constructs throughout the JCC process*” (Dietz and Fortin, 2007: p. 1163). In addition, the HR manager emphasised that the JCCs enable people from management to understand better the thinking of employees and also their needs and problems. In this regard, in her own words:

“...we are always looking to improve - there is no doubt about that. It has worked very well. Our relationship with them [i.e. union officials] is good. By involving them, you build upon a very strong bound of trust and if people can trust you, they will work for you. If you can speak to the representatives in confidence, they could do the same with you. We do not always agree. [Therefore], we will always have the arguments [and] we will always have the disagreements – but at least, they [i.e. union and employee representatives] sit down and talk about...and we are always going to negotiate...”
(HR Manager at the Depot Sites).

On the other hand, she referred to some problems related to when the company decided to bring the two depot sites under the same management structure. More specifically, she argued that there was some reluctance to change and it was difficult to bring together two different cultures, which involved “*...a very interesting [learning] curve...*” for all employees on both sites. She also added that there is always the need to improve the communication process and employee voice mechanisms:

“...our drivers go to different sites [and] they pick up rumours and information. A lot of people would speak [with someone from] the head office. If they do pick up rumours, and these rumours eventually work out to be true, then they would say to us ‘well, you

could tell us that a long time ago, you knew this sort of information but you did not tell us'. And we can only tell to somebody something that is officially announced, we cannot do anything about a rumour [but] only work on facts. How do we improve it [i.e. the communication mechanism]? We continuously try to improve it and we will always do that" (HR Manager at the Depot Sites).

The trade union representative pointed out the benefits of having established information and consultation arrangements:

"... in moving forward in today's industry we feel things run smoother and more efficiently if you have the information up-front ... everything is open – with no hidden agendas...there is a need [to have] a balance of views and work methods/practices..." (Trade Union Representative).

He also made a reference to some difficulties concerning the communication process between the workforce and their representatives in relation to the information and consultation arrangements:

"... too much information, until things have been confirmed, can be bad for the members... [other problems include] time factors and getting people from different shift patterns together...any new developments [should be] understood and worked through before they happen...making sure the information is passed back and down the line... and also the members' issues are being raised and discussed..." (Trade Union Representative).

The employee representatives also commented on the false impression that they and individual employees initially had about the staff forum at the head office. Moreover, due to its evolving nature they also pinpointed the fact that employees were still not well informed about the purposes and objectives of the staff forum, which was described as a major problem, in practice, as neither the employees nor their representatives could reap its full potential benefits. More specifically:

"People thought that it was a body of people, who were going to talk about smaller things – the sort of day-to-day issues rather than the bigger picture. And I think that they are aware of it now. [But] still people do not take full advantage of the fact that

they have a staff forum...I am not sure, whether they do not care or they are not aware. Generally, they are not aware of the full potential of the staff forum or they are not sufficiently interested to raise issues or bring issues to the staff forum's attention..." (Employee Representative – F Grade - Technical Manager of non-edible products).

"I do not think [that] we were expecting to have to deal with such personal issues as redundancies...it was quite a shock really to deal with that kind of thing..." (Employee Representative – D Grade – Constituency of Property Management).

"My expectations were completely different from what it is... I thought that I would bring issues from employees to the board's attention...[employees] thought that this is how they would be able to use the employee representatives - [i.e.] about more personal issues rather than what it is. Most of the constituencies believed that they had a shining voice for individuals' subjects. But [it is about] the board bringing issues to the table [sic] and us representing our constituencies..." (Employee Representative – D Grade – Constituency of Finance).

One of the employee representatives also underlined the insufficient knowledge of the ICE Regulations on the part of the employees and the fact that he had just tried to learn about the ICE Directive when the HR manager asked for volunteers to be interviewed for the conduct of research. More specifically, he stated:

"It seems strange that, [ourselves] as a staff forum, we are not really aware of the [ICE] Directive...or if we were, it was not mentioned as to 'why' the staff forum was going to be formed. But I do not think, at any time, we have actually studied [the ICE Directive] very closely..." (Employee Representative – F Grade - Technical Manager of Non-edible Products).

In addition, the representatives realised that the scope of their collective bargaining power is fairly constrained and, in particular, no specific negotiation procedures are explicitly included in the remit of the staff forum. Moreover, employee representatives expanded profusely on the difficulties that they faced, especially in the beginning when they had to deal with the collective redundancy situation. At that time, there was lot of distrust from their workmates with regard to the extent to which management decision-making could actually be challenged.

“We got the feeling that they [i.e. employees] hold you responsible. Just because I sat in the meeting, they thought that it was me who was making the decision... [and, in fact] they grudged me for knowing information before they did. Afterwards, once they realised what was happening [i.e. that we only had the best interests for them], they were getting over that [sic] and they were quite grateful actually once everything was sorted out. Even though, it is not me who is making the decision, it is still quite hard to try to deal with their own issues for them. Especially, when I am one of the people that is staying in and they have to go... that is the hard part I think...I found it quite stressful and wanted to pull out...I just did not like it at all [...] But as it goes on, I get used to how things are being dealt...” (Employee Representative – D Grade – Constituency of Property Management).

The finance director also mentioned a few initial concerns regarding the setting up of the staff council and in particular highlighted the fact that time was a constraining factor:

“We were initially concerned about confidentiality - and about individuals coming to these staff forums to create trouble [sic] but this did not happen. If we can do [meetings] every month [and] more often, [it] would be better – but we have not the time to devote for it” (Finance Director at the Head Office).

As was previously noted, during the initial stages of the operation of the staff forum the majority of employee representatives lacked experience and, in addition, the majority of the individual employees had the wrong impression about its actual objectives. In fact, access to the agendas of meetings was not given in advance to most of the employees, which further increased their confusion as to the exact responsibilities of their representatives. Moreover, the serious challenges, such as: restructuring, collective redundancies etc, which were faced by the organisation at the inception of the forum, further increased the tension between the workforce and their representatives and clearly threatened the level of trust amongst them.

“...I knew a lot of people that were going to be made redundant. It was such a big restructure...which was just bolted out of the blue... then, we would go back to our desks and get bombarded with questions from the people in our department. It was really-really difficult. But that was probably because it was such a big redundancy

package. I get used now to it and am fairly happy to sit here!" (Employee Representative – D Grade – Constituency of Property Management).

"The only problem is the perceived [view] that we were involved in whatever the company is doing, and keep secrets... which is completely wrong. But, it can be sometimes perceived in that way..." (Employee Representative – D Grade – Constituency of Finance).

Overall, the establishment of the consultation council at the head office is a significant development as it provides a relatively coherent form of representation for the employees, which did not exist beforehand. However, it is based on a management initiative and at the time of the research the employee representatives lacked the required expertise and were still heavily involved in the process of acquiring the necessary training and knowledge. Therefore, their influence in relation to management decision making was significantly limited at that time. On the other hand, the already established dual channel of representation at the depot sites indicates a more effective and coherent form of employee voice, which is based on the three different trade union recognition agreements and two JCCs that have operated for a number of years. In other words, at the depot sites both the union and employee representatives have a superior expertise in promoting employee interests through the consultation and negotiation mechanisms, when compared with the head office. In fact, at the time of the research, the main employee voice mechanism at the head office was formally labelled as being collective consultation and was still in the early stage of its operation, resulting in its provisions being inferior to those under the union-based arrangements at the depot sites. In sum, even though the consultative forum at the head office complies with the statutory requirements of the ICE Regulations, it appears that it focuses mainly on the transparent communication of business decisions.

6.4.3 Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing

In accordance with the model of *"strategies and objectives of non-union voice arrangements"* (adapted by Gollan 2000: p. 415; cited in Dundon and Gollan 2007: p. 1190), it is argued that the staff forum at the head office can be described as a

“complement to management decision making”. In addition, issues related to harsh decision making (such as: collective redundancies and restructuring) have dominated during the meetings and, therefore, this staff forum has the features of a *“conflictual (win-lose)”* situation that is *“legally-imposed”* and based on *“management initiative”* (ibid). Furthermore, at the time of the research, there was no sign at all that the newly established consultation arrangement at the head office could actually provide any sort of true joint consultation, in comparison with the dual channels of representation at the depot sites. Using the description provided by Beaumont and Hunter (2007: p. 1240), this is an example of where an *“external event”*, in the form of collective redundancies and restructuring at the head office, has led to the establishment of consultative machinery in order to comply with the minimal requirements of the ICE Regulations. In other words, these external events can be described as drivers that prompted the necessity to set up the staff forum at the head office, in which the consultation process was mainly triggered by *“unforeseen developments”* (ibid: p. 1242). However, as was previously pointed out, it was an initiative taken by the HR department, which was subsequently unilaterally applied by management without any negotiation with employee representatives.

“It was the employer who came up with the idea for the staff forum, but I mean that they obviously saw that the legislation was on its horizon... they had to do it [and] have been broadly supportive of it...” (Employee Representative – F Grade - Technical Manager of Non-edible Products).

“The staff forum was probably set up because of the legislation, [which] has had an impact on certain issues...regarding, for instance, redundancies. If there was no staff forum, there would be no-one for the company to consult with... I think the legislation has worked for us [sic]” (Employee Representative – D Grade – Finance Constituency).

This is consistent with the findings of Hall et al. (2007: pp. 20-21), in that *“the experience of crisis or major change”* (such as: the redundancies and change of ownership) and *“the arrival of new management”* have contributed to the development of the staff forum and this has largely been instigated so as to comply with the statutory requirements of the ICE Regulations. The finance director at the

head office emphasised the importance of legal requirements and change of ownership as being the main drivers for setting up the staff council and also the necessity to develop more formalised communication and consultation mechanisms:

“The staff forum, its formality and discipline have undoubtedly been born out of the legal requirement, although it [i.e. the setting-up of the staff forum] was something that would probably have happened anyway because we were moving towards that. But, it happened probably quicker, more formally, and it has been done better, because of the legal requirement. Due to the fact that the business has changed ownership, we are going through a simplification process in the business to make it easier to communicate and make it easier for people to communicate up and down. The [ICE] Regulations have definitely been a catalyst to make it happen and probably give it more structure” (Finance Director at the Head Office).

Within the depot sites, the situation is different and the ICE Regulations have not brought any changes. This is because consultation and negotiation rights were already recognised for the unionised workforce and also, the union negotiation forums operated alongside the two JCCs before the legislation came into force. In fact, the senior union representative pointed out that they only came to hear about the ICE Regulations when there was an update by the firm’s legal department and trade union officials, who contended that the legislation made no suggestion that they needed to take any action with regard to the employee representation structure. Moreover, he expressed his contentment with the pre-established union-based arrangements and made reference to the fact that the provisions of the union agreement are superior when compared with those of the ICE Regulations.

“We already got an agreement that more than [enough] covers [the] ICE Regulations...union and representatives sit down, consult and move forward with compromise from both parties...” (Trade Union Representative).

The HR manager also confirmed that all the necessary arrangements were already in place before the legislation came into force (as is the case with most unionised organisations):

“It [i.e. the ICE Directive] has not had a big effect, simply because we consult anyway. It is the way that we work as a company. And I think you will probably find that a lot of large companies already do work in this way...” (HR Manager at the Depot Sites).

In relation to the opportunities that the legislation may provide, she made reference to the value of employee consultation and commented on the fact that the ICE Regulations could bring beneficial outcomes to smaller companies:

“I think it is very important because you have got to get the workers value. If you want to progress and develop a site or company, your people are the most [valuable] asset and you have to bring them along with you [through involvement]. I think it [i.e. the legislation] is good, I think it is necessary, and I think for the small companies, which do not have this kind of thing, it will formalise the communication system” (HR Manager at the Depot Sites).

In sum, the ICE Regulations have only provided the opportunity for change at the head office, where the marked absence of unionised employees and lack of trade union recognition agreement hindered the establishment of collective representation for the employees prior to the implementation of the legislation. Nonetheless, in line with the arguments of Gold (1998), the consultation forum at the head office developed in an “*opportunistic way*” (p. 130) and was triggered by the necessity to conduct restructuring and collective redundancies through transparent and legal means. Overall, it appears that the ICE Regulations do not provide any opportunity for further improvements at the highly unionised depot sites, because the pre-established voice mechanisms are substantially superior when compared with the statutory provisions of the legislation.

6.4.4 Evaluation of the ICE Regulations: Limitations and Challenges

The unilateral setting up of the Constitution Agreement at the head office indicates the lack of co-ordination by the employees and their poor expertise, which weakened their ability to seize the initiative so as to request and trigger the process for negotiations that may have subsequently resulted in their achieving a more favourable consultation arrangement for collective representation whereby their primary concerns could be addressed effectively. In reality, the HR management team established the staff forum

with the view of meeting the statutory requirements of the ICE Regulations, so as to avoid more protracted negotiations with the employee representatives. Therefore, this is another example of proactive management strategic positioning in relation to the implementation of the ICE Regulations. Moreover, the pre-emptory character of the staff forum at the head office is evident, as the employee representatives did not have the opportunity to challenge management decision-making with regard to the setting up of the forum in the first place. This allowed the board of directors and management to set it up in accordance with the organisation's needs and interests so as to comply with the minimum statutory provisions of the legislation.

In addition, with the establishment of the agreement at the head office, it will now be very difficult for the employees to challenge the current arrangements and request negotiations for a change in the representation structure, in particular because they lack the necessary co-ordination to organise a formal request for negotiations. Moreover, in this regard, the minimal threshold for triggering the negotiation procedures is now much higher (i.e. 40 per cent of the employees should vote), because information and consultation arrangements in all parts of the organisation, including the depot sites, comply with the requirements of the ICE Regulations.

From a different perspective, one of the employee representatives emphasised the fact that the staff forum was still in its early days and expressed the belief that it had the potential to provide good opportunities for the workforce in the future:

"...it is still too early for a lot of people to realise that they have that vehicle, the opportunity to use that staff forum more, and take more advantage of that facility than they currently do..." (Employee Representative – F Grade - Technical Manager of Non-edible Products).

Nevertheless, at present the influence of employee representatives, in relation to management decision making, seems to be very limited and the consultation process is actually more about upward and downward communication. In other words, using terms cited in the relevant academic literature, the consultation forum can be described as a form of pseudo-participatory or pseudo-consultation process (Dundon et al., 2006; Pateman 1970; Brannen, 1983), where the company complies with the

statutory requirements and the employee representatives perceive that they are being consulted, but the final decision making strongly rests in management prerogative. Moreover, such a form of consultation often involves the communication of decisions that have already been taken and, therefore, the notion of consultation is only engaged in a minimalist manner. Furthermore, the unilateral initiating action by management, in relation to the establishment and development of the staff forum at the head office, has left little scope of influence for the employee representatives. In this regard, the employee representatives initially brought various personal issues from the individual employees, but subsequently it was made clear to them what the main agenda items and issues for discussion had to be.

“The company would bring the issues that they wanted us to discuss...they would bring the queries to the table...the company is bringing the issues as deciding what is best for our constituencies...[at the first meeting] employees brought issues, but [after that] we had a covering of global e-mail explaining [the procedures of staff forum]...”
(Employee Representative – D Grade – Constituency of Finance).

Certainly, the development of the staff forum at the head office has provided, for the first time, a consistent opportunity for the employees to have a structured form of representation for consultation with the accompanying potential benefits. Nonetheless, in line with the empirical findings of pertinent research, it can be similarly suggested that harsh “*business priorities*” (i.e. collective redundancies, organisational restructuring etc) necessitated the implementation of management’s “*forcing strategy*”, through which in practice there is a limited scope of action for the employee representatives (Beaumont and Hunter, 2007: p. 1243). In addition, the fact that there is no trade union recognition agreement means that the employees do not have collective bargaining and negotiation rights. Moreover, the lack of training for employee representatives raises serious questions about the efficacy of their voice on the staff forum and, more specifically, their ability to exert strong influence in management decision-making.

Drawing on the comments by Blanpain (1983) on Vredeling’s proposal, the staff forum at the head office is a typical example in which the consultation process is “*within the scope of managerial prerogative*” (p. 22), rather than being a joint

decision-making body. That is, it actually seems to work so as to fit with the legal requirements, but only provides limited scope for influence by the employee representatives over management decision making.

In addition, there is no involvement by employee representatives at the head office in any collective bargaining process and their scope for action, with regard to the way that they can become engaged in the consultation process, is relatively limited. For instance, some of the employee representatives mentioned that they could only bargain about ‘how’ and ‘when’ the redundancy procedure would take place, but not about the actual process and potential outcomes. More specifically, according to the interviewees, employee representatives appear to have limited influence over management prerogative and they described a situation that is consistent with the features of pseudo-consultation. Moreover, this perspective is supported by the fact that they are mainly consulted on critical issues (such as: collective redundancies), which under the ICE Directive is a prerequisite.

“All they [i.e. management representatives] have to do is to listen. They do not have to react in any particular way to us. Because we are not unionised to any significant degree here, I suppose it is a fairly toothless [sic] organisation really! I think we are probably ticking a box to show that the company has consulted and informed. But at least, we do that. In the recent period of redundancies, we were useful...whether we have actually improved any conditions for those who were made redundant, I am not sure! We may have done it, but I am not entirely sure that we broke any ground as such” (Employee Representative – F Grade - Technical Manager of Non-edible Products).

“We are not involved in the decision making process...it is just that: we are actually being told what is being happening after the events. If I do feel personally about something that does hit a nerve [i.e. that is very important], I speak out. But whether it has been put into practice afterwards, it is another thing. We do not have a major influence...and at the end of day, they [i.e. board of directors] have decided what they are going to do and how they are going to do it – regardless of what we propose, it is not going to make that much difference... I think that is about the level that we can affect really...that is beyond [our] control...” (Employee Representative – D Grade – Section of Property Management).

“I would like to say that we had a great impact...at least we have been consulted... the decisions have been made but with the employees in mind. [Nonetheless] I cannot think of any real serious company decisions [that] would have been changed by the staff forum. Our gains/wins are very limited in that process – it depends on what the subject is. When it comes to the redundancies, the company is going to do it anyway – and they can legally do it. The only win is [whether] you want to allow them to do it quickly [or not]... because that is the only thing that you have to bargain with: the time!”
(Employee Representative – D Grade – Finance Constituency).

Therefore, the ability of employee representatives to have effective voice, through the consultation forum at the head office, comes in for serious questioning. At the time of the research, they did not have sufficient bargaining power and experience to challenge the decision making and the operation of forum was mainly reactive rather than proactive. In accordance with the arguments of Cressey (2009: p. 158), the staff forum appears to be a “[*functional mechanism*] of participation” but is “*voluntary and unitary in [its] outlook*”. In addition, it can be described as a talking shop, where employee representatives have a limited influence over decision making and management prerogative is hardly challenged.

“On the surface, it [i.e. consultation forum] seems to work fine. The company advises and allows us to consult. It [i.e. the company] has done what it is required. Regardless of what we may say or ask for, the company does not have to necessarily take any action from what we say. In theory, it is a very good idea - in practice, I think that sometimes it may be just a talking-shop... [i.e.] it does not necessarily mean that it is a powerful group of people...” (Employee Representative – F Grade - Technical Manager of Non-edible Products).

“Especially, [for finance issues] we are not going to make any changes. [Once] the company has decided what the pay is, that is it! We have come to get used to that now, there is no point in negotiating it. If we think that something is really wrong and people are getting undercut and not being paid what they are due, then we bring it up [for discussion]” (Employee Representative – D Grade – Constituency of Property Management).

By contrast, at the depot sites employee representatives and especially trade union representatives have stronger power and greater ability to challenge management

prerogative. In particular, the long standing operation of the JCCs, combined with the trade union recognition agreements, has enabled the employees at these sites to have effective voice through consultation and negotiation mechanisms within an environment of mutual trust. In addition, at the time that the research was conducted, they had not had to deal with serious challenges and external events (i.e. organisational restructuring, collective redundancies etc), such as those faced at the head office and other depot sites.

In sum, it appears that the potential impact of the ICE Regulations, with regard to the establishment and development of information and consultation mechanisms, may diverge substantially between unionised and non-unionised workplaces. Furthermore, trade union recognition agreements may provide a greater level of influence and power for employee representatives, in the context of management decision making. In other words, collective union recognition agreements can strengthen these sorts of arrangements, and also potentially enrich the agenda of employee forums. On the other hand, the absence of union recognition agreements can hamper the effectiveness of employee forums and severely limit the scope of collective bargaining. In this case-study, the evidence suggests that simply adopting information and consultation arrangements, as required by the statutory provisions, is not sufficient enough for securely establishing an effective and coherent body of representation for the employees. In reality, although the employee representatives conceded that from their perspective these arrangements are transparent and legally satisfactory, this does not allow for much scope in terms of their sphere of influence.

“The duty of the company to inform and consult with the union is a stricter discipline than in a situation where there is not a union presence... we have no bargaining power [i.e. at the head office]... we are not powerful collective representatives. We have no power at all other than to listen, consult, talk back and that is it about really! We are exposed in a way!” (Employee Representative – F Grade - Technical Manager of Non-edible Products).

“The legislation has allowed us [i.e. the elected representatives of the staff forum] to happen [sic]...but, it only gives us a certain amount of power...it is basically [just something] that the company has to go through – it gives no real power to the staff

forum... the legislation is still stuck [sic] in the company's favour...it is the same with the redundancies. If the company does not agree with us, they can just wait, until the consultation period finishes, and do whatever they want anyway... There is no obligation legally – and definitely not morally - for the company to actually listen to the staff forum. It is just, what I would call, a touchy-feely exercise, just to make people feel better!...” (Employee Representative – D Grade – Constituency of Finance).

At the head office, the change of ownership and support for employee participation by the new board team, in conjunction with the statutory requirements of the ICE Regulations, were the key drivers for establishing a consultation forum. The consultation mechanism was structured in a transparent way, but it remains to be seen to what extent the employee representatives can take advantage of this opportunity and be able to have an influence in decision making. In addition, according to the pertinent academic literature (Coupar and Stevens, 2005), training and guidance are necessary pre-requisites for attaining sustainable and effective employee participation mechanisms, such as those relating to the information-sharing and consultation arrangements at the head office.

During the early operation of the staff forum there was scepticism about the actual involvement of employee representatives. Moreover, there was some sort of uncertainty about the future potentialities of this body of representation, owing to the fact that redundancies were continuing to be experienced. According to Beaumont and Hunter (2007), this sort of uncertainty may harm the operation of consultative councils, because any negative external “*events away from the consultative arena*” (p. 1243) may hamper the establishment of trust and, therefore, both management and employee representatives should be prepared to “*face periodic challenges*” (ibid), such as unforeseen collective redundancies. In fact, during the conducting of the empirical research, the employee representatives highlighted their unpreparedness and ignorance with regard to the potentialities of the staff forum at the head office:

“Generally, they [i.e. employee representatives] are not aware of the full potential of the staff forum or [...] they are not sufficiently interested to raise or bring issues to the staff forum's attention... it [i.e. the staff forum] could be a more valuable tool for the people who are working here... I do not think that they have grasped the potential that

the staff forum has for them...we need to educate the employees [as to] what the staff forum is about? What it can do?" (Employee Representative – F Grade - Technical Manager of Non-edible Products).

"I do not think that we can have any expectations, because nobody knows where they stand at the moment... as far as we are concerned, it is not over yet, until it does come to some kind of standstill...people in the whole business do not know what is going to happen from one day to another...it is really difficult to plan ahead..." (Employee Representative – F Grade - Technical Manager of Non-edible Products).

"We are in a transitional change in the company, there is nothing on the board...We need to get through this current transitional period first..." (Employee Representative – D Grade – Constituency of Finance).

6.5 ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces.

Discussion and Summary

Case-study two provides an example of the unilateral establishment of information and consultation arrangements by management in a non-unionised workplace, i.e. at the head office. This has enabled the organisation to comply securely with the statutory requirements of the legislation, whilst the employees previously lacked the co-ordination to request negotiations before the development and implementation of the Constitution Agreement. Consequently, it is now difficult to challenge this agreement because the votes of 40 per cent of the employees are needed to request negotiations for altering the current arrangements. In line with the argument of Hall (2006), this can also be described as a management strategy of pre-empting any initiative by employees as the legal threshold for triggering the negotiation procedures is now likely to be insurmountable.

In sum, all of the undertakings of this case-study organisation now comply securely with the statutory provisions of the ICE Regulations. The pre-existence of consultation and negotiation forums at the unionised depot sites provides a strong indication that consistent and influential forms of employee voice are more evident in unionised workplaces. Moreover, in such workplaces the ICE Regulations do not

provide an opportunity for any significant change, because the provisions of union-based agreements are relatively superior when compared with the information and consultation arrangements. More specifically, at the depot sites, union and employee representatives had already acquired their collective consultation rights through the JCCs, and union forums can currently allow the representatives to negotiate and even have a strong influence on decision making.

Interviews with the employee representatives at the head office reveal that the company established and enforced (i.e. strengthened) a fair and transparent form of representation for: information disclosure, communication and consultation in accordance with the statutory provisions. However, the lack of involvement by the employees in the development of the constitution at the head office has resulted in the imposition of a management-led consultation forum that is functional, but quite unitarist in its form. Moreover, the necessity to conduct redundancies in accordance with the requirements of the legislation was the main stimulus that provided the impetus to establish the consultative council. This development did allow the employees to have a say regarding business decisions that severely affected them (i.e. collective redundancies), and employee representatives did express the view that it is an important voice mechanism for improving employee involvement and participation arrangements that function in accordance with the legislative provisions of the ICE Regulations. In other words, at the head office, an organisation-specific information and consultation arrangement has been established and developed with strong reliance on the need to conduct collective redundancies, which is subsequently pertinent to the conceptual framework of legislatively prompted voluntarism.

Moreover, at the head office, the management prerogative is broad and strong, as final decision making cannot be seriously challenged by the employee representatives. In particular, hitherto the employee representatives have not acquired the required expertise in order to ensure the efficacy of the consultation process, although intensive training has taken place so as to deal with this issue. In addition, the lack of a trade union recognition agreement at the head office does not allow any negotiation rights for the employees who are also considered to be “*exposed*” to the management prerogative, thereby just being able to participate in a “*talking shop*” (Employee Representative – F Grade - Technical Manager of Non-edible Products). In other

words, the lack of union recognition agreement has resulted in the absence of a dual channel of representation, which could otherwise help to ensure the existence of coherent and effective forms of employee voice.

Furthermore, even though the ICE Regulations have provided a very good opportunity for the establishment of a structured consultation arrangement that sustains employee representation at the head office, it can be primarily described as opportunistic with the main real focus being on the communication of business decisions. In particular, although the actions carried out by the head office securely comply with the minimal statutory provisions, they do not assist for the enforcement of effective collective consultation arrangements. In other words, coherent employee voice and workplace democracy are poorly supported under these circumstances, but hopefully the current provisions can act as a potential vehicle for greater employee influence over management decision making in the future.

It remains to be seen whether employees can use such arrangements in order to build up more coherent forms of employee voice and participation and this is particularly problematic because their representatives do not, as yet, have the required expertise at the head office. Nevertheless, the situation could be improved if the organisation provides greater opportunities for training and learning, so as to improve the efficacy of employee representation. In other words, time and the active involvement of all the parties are required in order to enhance workplace democracy at the head office and the focus should lie in restoring the trust and job security that were seriously impaired due to the collective redundancy situation.

By contrast, at the depot sites the long-lasting union-based arrangements are certainly more effective. In fact, the potency of employee voice at the depot can be primarily attributed to the culture that has been developed, which promotes workplace democracy through dual channels of employee representation and the strong involvement of the trade unions. In this regard, one trade union representative strongly emphasised that consultation involves mutual compromise between both parties and added that “...*management on this site works in partnership with union on all matters...in moving forward, there needs to be a balance of views and work methods/practices...*”. In relation to the future prospects, he pointed out that the main

objective is to “...*carry on, as we are, as a partnership...*”. Overall, the employee participation arrangements at the depot sites are superior in comparison with the provisions of the ICE Regulations and as a consequence amendments owing to the implementation of this legislation are unlikely to take place.

CHAPTER SEVEN

CASE-STUDY THREE

7.1 Organisation's Structure and Employee Representation

The third case-study of the empirical research is a British owned retail company, with twelve stores in England being part of the same group together with a head office. Originally, the company was founded in 1881, as a fancy fair, and subsequently continually expanded, with the last store being acquired in 2006. As noted on the company's website, it *"...seeks to differentiate itself by focusing its offer on specific merchandise categories – principally womenswear, menswear, gifts, cosmetics and light home-wares – and targeting the particular needs of the ABC1 customer..."*. Three of these stores trade under their individual names and research took place in one located in Yeovil, which became part of the group in 1999. In particular, this store was originally a family-run business and currently this family is the main shareholder, but without executive powers. In each store there is a Store/Staff Council, which is the main representation body for the employees and in particular, the one at the Yeovil store has operated under the current formal arrangements since 1999.

The total number of employees at the Yeovil store, across two sites, is approximately 300 of whom about 150 to 160 are contracted employees, with the rest being known as concession employees⁵³. The Store Council and training sessions are the main communication tools and there is no formal trade union recognition agreement for collective bargaining purposes.

7.2 Interviews and Collection of the Qualitative Data

For the purposes of the research, ten semi-structured interviews (on 7th June 2006) were conducted with: an HR officer, an employee from catering department, an employee from the finance team, a representative from section management in fashions (DSM1), the secretary of the Store Council, an employee representative from the warehouse, a representative from section management in the furniture store

⁵³ Approximately 90 to 100 concession employees are at site 1 and 50 to 60 are at site 2.

(DSM2), the section manager in the cook-shop (DSM3), an employee representative from the finance group and the HR manager. In addition, a semi-structured interview was conducted with the store director (on 25th October 2006) and all relevant documentation was collected (such as: the 'Store Council Constitution', 'Communication Policy' and the minutes from ten different meetings), and finally a non-participant observation of one of the Store Council meetings took place (on 25th October 2006).

Most of the interviewees participate in the Store Council meetings, but not all of them. More specifically, at the time of empirical fieldwork, both the HR manager and HR officer had worked in the company for four years, and they were taking turns to participate in these meetings. The employee representative from the finance group had worked at the firm for nearly four years and it is noteworthy to mention that she became an employee representative and participated for the first time in a Store Council meeting in August 2006. At the time of research, the other employee from the finance team had worked for a similar amount of time, but she was not a representative and, likewise, the employees from the catering and warehousing departments were not representatives either. The section manager from the department of fashions (DSM1) had worked in the store for nearly twenty years (at the time of the fieldwork) but she did not participate in the Store Council meetings. The section manager in the furniture store (DSM2) is a representative, who regularly participates in the meetings as a member of the Store Council and has worked at the store for more than twenty years.

At the time of research, the section manager from cook-shop (DSM3) was not a representative, but had worked for about ten years in the store. The secretary was a member of the council and had worked in the store for approximately six months and previously she had worked in the HR department in another organisation. The store director always chairs the meetings of the Store Council and at the time of research he had worked for about 30 years in the company. He originally started as a sales assistant and progressed slowly to the upper levels of the firm, starting from the post of being an executive in various services, including section and department manager, and eventually becoming the store director.

It is noteworthy to point out the different perceptions amongst the representatives and individual employees about the Store Council. More specifically, individual employees appear to lack sufficient knowledge about the operation of the Store Council in comparison with the representatives. Overall, it was revealed from the interviews that most of the employee representatives do not have good knowledge about the ICE Regulations. On the other hand, the HR team and secretary have in-depth awareness and, in particular, it was the HR manager who took the initiative to bring the legislation as an item for discussion to the Store Council meetings.

7.3 The Store Council Meeting in Yeovil

7.3.1 Adjustments and Reviews – The Impact of the ICE Regulations

The Communication Policy and Staff Council Constitution Agreement were included on the agenda of a council meeting in all the stores after having been reviewed by the company's head office and their subsequent advice had been cascaded down (in October 2006). However, this advice made no explicit reference to the ICE Regulations and no substantial changes were subsequently made to the existing Constitution Agreement, which had been in place in all stores since 1999, because it already complied with the requirements of the legislation. The current agreement covers all employees in all undertakings of the group and even though minor amendments were carried out whilst this research was in progress, it was generally accepted that they already complied with the necessary information, communication and consultation mechanisms. In other words, the head office of the organisation had already ensured that there was the equivalent of multiple 'PEAs' across all of the stores, prior to the transposition of the ICE Directive in the UK, and within the aforementioned Constitution Agreement the organisation "*...recognises that effective communication between itself, its employees and its customers is crucial to its operation and maximisation of profits...*" (Communication Policy, October 2006: p. 1).

In addition, formal reviews of the Store Council Constitution Agreement would appear to be considered highly important, as the effectiveness of the councils has to be formally reviewed every three years, with comments pertaining to this issue being given to the HR executives for "*...co-ordination of responses and amendment of*

constitution if required...” (Staff Council Constitution, October 2006: p. 5). Employees are also encouraged to offer their comments on matters that are of concern to them and the HR department should regularly review and evaluate the effectiveness of the Communication Policy and “*any recommendations for amendments will be made to the Board*” (Communication Policy, October 2006: p. 5). In addition, high emphasis is placed on the confidentiality and disclosure of information based on the Data Protection Act.

7.3.2 The Composition of the Store Council

All the company’s employees are eligible to become representatives provided that they have completed six months service. However, concession employees cannot become representatives at the council meetings, but they are allowed to have their own representative who can take part in a separate meeting between concession managers and the store director twice a year. The elections are co-ordinated by the secretary who also ensures that the nomination/voting forms and ballot papers are prepared and issued. Table 7.1 illustrates the composition of the Store Council.

Chairperson: the store director [i.e. ex-officio]
Vice chair
Secretary
Health and safety competent person (who attends the H & S part of meeting only)
1 Representative per selling floor
1 Representative for catering
1 Representative for non-selling employees e.g. cleaners etc
1 Representative of department managers
1 Representative for weekend teams

Table 7.1 Composition of the Participant Representatives on the Consultative/Store Council in Yeovil (Source: Constitution Agreement Document).

The total number of members who participate in the Store Council meetings is typically between 10 and 15 (depending on the amount of selling floors for each store), and in particular, in the Yeovil store 12 people normally attend. The store director is the chairperson and does not have to be a formally elected representative, whilst all the other members of the council have to be formally elected. There is no definite period regarding the rotation, but as soon as there is a vacancy the formal

process of recruiting a representative is applied. The chairman should “*set dates of bi-monthly meetings at the beginning of the corporate year, discuss with the secretary issues for the agenda, chair fairly and in a way which allows all to air their views...*” (Staff Council Constitution, October 2006: p. 1). If an issue cannot sufficiently be dealt with at the time of meeting, it should be referred to the most appropriate department or the head office for resolution and if deemed necessary, extraordinary meetings can be called by senior managers. The secretary has to liaise with the chairman and all employee representatives about all the issues/items proposed for the agendas, two weeks in advance prior to the meetings. As soon as the issues/items are mutually agreed, then they are distributed. Finally, the secretary has to prepare and distribute the minutes within one week after the meeting.

7.3.3 The Purpose and Role of the Store Council Meetings

The main objectives of the Store Council meetings are: (a) to facilitate two-way communication and (b) to build and maintain mutual trust and co-operation by:

“...ensuring employees are kept informed on key issues, policies and procedures; defining and communicating company’s aims and objectives; maximising employee potential through effective communication and training; adopting consistent and reliable methods of keeping employees informed, providing opportunities for them to feedback their views and suggestions, and consulting on issues that may affect employees’ work; and finally, ensuring all employees receive the information to which they are entitled (e.g. contracts of employment, payslips, health and safety information etc)...” (Communication Policy, October 2006: p. 1).

The co-ordination of fundraising activities for nominated charities may be also included on the agenda. However, in the Constitution Agreement there is no explicit definition regarding the term “consultation” or how any such procedure should take place and instead, the main emphasis would appear to be placed on two-way communication, so as to enable the delivery of suggestions and recommendations by the employees to the senior management and vice-versa.

According to the company’s Communication Policy and Staff Council Constitution Agreement documents, employees are entitled to:

“...participate in regular team meetings, have objectives set in relation to their job, access policies and procedures relevant to their job, be consulted in relation to proposed changes to their job, contact and consult with their employee representative on the Staff Council...” (Communication Policy, October 2006: p. 1).

In addition, employee representatives should:

“...participate in the communication process, appreciate that communication is a two-way process, ensure that appropriate information is shared and understood...” (ibid).

Another key responsibility of employee representatives is to *“make known the views of the colleagues they represent and act as their ‘voice’ on the Staff Council”* (Staff Council Constitution, October 2006: p. 3). More specifically, they should, well in advance, consult and decide with their colleagues about matters and issues that they would like to have included on the agenda of meetings. After the meetings they should report back to their colleagues all the decisions taken and matters arising, through face-to-face meetings or circulation of the minutes (ibid).

The Chief Executive should *“ensure that all employment regulations are complied with, appropriate policies and procedures are introduced in accordance with the legislation, and employees are given the information to which they have a right (e.g. employment contracts)...”*. Furthermore, the Chief Executive has the overall responsibility to identify and disseminate the company’s corporate aims and objectives. The HR Executive is responsible for *“implementing and evaluating the Consultation and Communication policy”* and also *“briefing the Chief Executive and Board on changes to employment legislation”*, whilst the executives or heads of department should ensure: the implementation of communication policy, *“the timely and efficient dissemination of information to appropriate employees”* and decide upon the information that has to be communicated to employees and as deemed necessary (Communication Policy, October 2006: p. 2).

Overall, the Staff/Store Council aims to:

“(a) facilitate two-way communication between employees and senior management, (b) provide suggestions, views and recommendations on behalf of colleagues to senior management, (c) ensure that effective channels of communication are kept open between employees and senior management, (d) contribute to building and maintaining mutual trust and co-operation” (Communication Policy, October 2006: p. 2).

7.3.4 Agenda and Issues for Discussion During the Store Council Meetings

Various issues can be included on the agenda of meetings and the terms of reference provide a list of examples concerning the topics that can be included at any meeting, such as: sales figures, store successes, test shopping results, store budgets, current product promotions, account openings, employee turnover rates, sickness absence levels, social activities, welfare issues, health and safety issues, training requirements, store charity and fundraising events. Other issues, which are included on a less regular basis, are: the corporate plan, store business plans, company results, new company policies and their possible impact on the employees, such as: working hours, opening hours during the Christmas/Easter periods and any issues potentially affecting job security.

7.3.5 Non-Participant Observation at the Store Council Meeting in Yeovil

A non-participant observation of one of these meetings was conducted in October 2006 and matters arising from previous minutes, an update and other department and business issues were included on the agenda. In addition, there was an announcement concerning the forthcoming election of two store council representatives for the ground floor of the fashion store and second floor of the furniture store. Furthermore, as previously noted, the reviewed Store Council Constitution Agreement and the Communication Policy, as addressed by the head office, were included on the agenda, but there was no explicit reference or briefing regarding the ICE Regulations.

7.4 ICE Regulations: Current Attitudes of Individual Employees and Management

7.4.1 Employee Involvement Arrangements and Representation Structures

The change of ownership has affected the formulation of employee voice mechanisms within the store. In this regard, before 1999 the store was independently run by the owner, who was also the director and employee voice mechanisms tended to be quite

informal. Moreover, concerning the past experience the store director expressed the view that although there were council meetings, which were operating in compliance with the legislative provisions, these were not entirely necessary because of the open culture that existed across the store. Since 1999, when the store became part of a wider group of a large company, the employee involvement practices, election procedures for the employee representatives and composition of the Store Council have all become more formal, as advised by the head office. However, there is no formal trade union recognition for collective bargaining purposes. According to the store director, representatives from USDAW were invited in the past, but the employees were not interested in becoming members or creating any type of union based representation.

The Store Council and weekly training sessions are the main or “*big*” communication tools (HR Officer). In addition, meetings between managers are held every month and concession meetings take place twice a year. The store directors meet regularly with other executives at the head office and other common methods of communication for the whole group are: noticeboards, briefings in the stores and at the head office, team meetings, annual board and executive seminars, role specific meetings, one-to-one meetings, store communication files, newsletters, training and development, induction programmes for new employees, performance and development reviews and suggestion schemes⁵⁴. Moreover, the secretary of the council provided a brief outline concerning the range of the structured voice mechanisms that exist in the company:

“[employees] get handouts, memos, bulletins... [they have] the council...they get the training every Tuesday...there are plenty of platforms there to get their views across...”.

The Yeovil store comprises two sites and four representatives from each site are usually elected to the Staff Council. Concession employees have their own representatives, who do not formally participate in the main communication and consultation mechanisms, but they are still involved, to a certain extent, in the

⁵⁴ Further detailed information, about the level of direct and indirect voice mechanisms at the store and also the content and issues included in information-sharing and consultation with the employees are provided in the appendices and notes.

company's voice arrangements (such as meetings with the store director) as they have their own HR department and forms of communication. The HR manager emphasised the importance of the Store Council, but mainly from the perspective of communicating and providing information-sharing, by saying that:

"... it gives the opportunity for two-way communication, certainly allows top-level information to come down and bottom-level information to come up...".

In addition, the HR officer pointed out that all communication policies, memos, the agreements and issues regarding training sessions are kept in files, with employee representatives being required *"to sign [and] say that they have been told about it"*. Consequently, regarding the employee involvement practices in general, there are elements of both high and low road approaches, but the main features of the latter strategy dominate. In other words, using the terms of the academic literature, there is *"...a mix of direct and representative mechanisms..."* and a tendency for greater emphasis on *"information [rather] than consultation"* (Dundon et al., 2006: p. 508). More specifically, at the Yeovil store, direct forms of employee involvement evidently exist alongside the Store Council.

Furthermore, the store director emphasised the open culture and open-door policy within the store, and also the direct communication with employees along with other forms of employee involvement, when he pointed out that *"...I do not need the Store Council personally, because I communicate by getting out..."*. These sort of open-door and direct communication policies have been referred to as examples of *"non-union bypassing channels"* in the academic literature (Dundon et al., 2006: p. 506). Furthermore, in this regard, it is noteworthy to mention that direct forms of involvement are generally more widespread *"in less complex organisations"* (Jirjahn and Smith, 2006: p. 656). However, one of the main criticisms concerning these forms of participation is the limited organisational influence that employees may have on decision-making (Marchington, 2000; cited in Hyman and Summers, 2007: p. 369), because the management prerogative cannot be easily challenged.

7.4.2 Benefits and Problems of Sustaining the Information and Consultation Arrangements

All the interviewees expressed positive perceptions about the Store Council at the time that the research was conducted, with many of them stressing their opinion that it is an effective communication and employee voice tool. With respect to this point of view, the HR manager contended that through the council meetings the employees feel that they are part of the business, and also:

“[they] take ownership with their job...[and] are more ‘loyal employee’ to the company because they know where they stand ...[furthermore, the Store Council] allows pre-voice to come stronger...[and employees] may have ideas of how to improve certain ways of working...it certainly allows for greater flexibility and movement of staff...[it] is a good forum - very interactive - and people feel able to talk openly and honestly...” (HR Manager).

DSM1 suggested that information-sharing and consultation can contribute to better working relations and conditions. Furthermore, the secretary of the Store Council pointed out that this sort of mechanism is helpful for both sides (i.e. management and employees), because no one wants *“...to be kept in the dark...it is far better and healthier for the company to be more open...”*. She also added that such legislative provisions can be a *“major breakthrough”* in workplaces where communication is based on a *“closed-door”* policy and subsequently, this may potentially *“break the barriers”* of hierarchy between the employees and management.

Similarly, the HR officer emphasised that one of the main benefits is the fact that the Store Council gives *“motivation”* to the employees, *“involves them”* in business decisions, and consequently they are becoming *“less resistant to change”*. In general, she also added that the ICE Regulations may help organisations that do not *“come up to the same level”* with other organisations as prompted by the *“minimal provisions”*. Moreover, DSM2 confirmed that the efficacy of communication is very good within the store, adding that the HR officer regularly sends out a form to all the representatives, who should initially speak with their colleagues, so that the employees can raise issues that can be put on the agenda of the Store Council meetings. In fact, according to her view, *“...we are setting the meeting for ourselves*

really...” (DSM2). Furthermore, she argued that information, communication and consultation mechanisms can improve team-working.

In general, all the interviewees suggested that there is a very good and co-operative atmosphere in the Store Council meetings. As the store director argued, *“it is relaxed, you listen to what they are saying...today’s meeting [i.e. on 25th October 2006] is typical”*. In other words, using the phrasing of Jirjahn and Smith (2006), it would appear that the Store Council Constitution Agreement has helped the company to build-up *“trustful and cooperative employer-employee relations”* (p. 651), and hence this can lead to the facilitation of *“information flow”* (p. 653). More specifically, both the HR team and store director emphasised that the information and consultation arrangements are contributing to the alignment of organisational goals and values, which can subsequently enhance trust and mutual understanding. Similar findings have also been confirmed in other research projects (such as: Hall et al., 2007: p. 72).

The HR manager referred to the difficulties that arise when harsh decisions have to be made which *“could be detrimental to the employees and their general well-being within the workplace in terms of any general concerns over the future of the business”*, but fortunately the company has not faced such problems as yet. In this regard, other researchers (Taras, 2000; Kaufman, 2003) have similarly found that employee involvement practices can become less successful in more difficult times. However, in spite of there being no such crisis at the time that the case-study research was conducted, some interviewees expressed their opinion that communication with the head office is not adequate in practice. In fact, some of them criticised the head office, because it simply sets up the agenda without providing sufficient information in advance for vibrant debate to take place, and it appears that it is just concerned, primarily, with promoting the business philosophy. In this vein, DSM3 stated that it is hard to establish effective communication with the head office. More specifically:

“...they [i.e. the people from the Head Office] talk to us when they need to... telling us things [as soon as decisions have been already made]...when we have got all [i.e. employee voice arrangements] in one store, it is a lot easier...it is not too bad throughout the actual store itself...the store director talks to us and tells us

everything...but they [i.e. the board directors and managers at the Head Office] are not so good!..." (DSM3).

At the time that the empirical research was conducted, DSM3 had worked in the store for approximately 10 years and therefore she had a very good knowledge of employee voice mechanisms, both before and after the change of the store's ownership. She also pointed out that actually *"there is no [true] consultation"*, and *"what is needed to be known"* is communicated through training. Notwithstanding her frustration with the current communication policy of the head office, she said that she was content with the arrangement of employee voice mechanisms within the store and did not consider that it was necessary to have any further amendments or improvements due to the ICE Regulations. Similarly, DSM2, whose view is worth mentioning because she had worked more than twenty years in the store, commented that *"not everything is always communicated down to the shop floor level from the Head Office"* and suggested that some representatives from the head office should start to attend some Store Council meetings so that they can have a better insight about the stores, because each one has its own individual needs. In addition, the employee from the warehouse department suggested that a wider range of issues regarding communication should be provided and believed that not all the relevant information that managers have in their possession is being passed down to the staff.

Regarding the extent to which authentic consultation is implemented, the interviews with the individual employees provide a very insightful angle. More specifically, the employee from the catering group was asked about the process of consultation and responded that *"...I am not sure that it touches me at all...perhaps the managers and deputy managers would be involved in various decisions...but I think that I am too 'lower-down' to be bothered..."*. Similarly, the employee from the finance team suggested that consultation is limited in practice, because it is mainly focussed on the communication of business decisions by the management. Furthermore, the employee pointed out that *"...the major issues that might be discussed may not be directly fed down to us...but if there is something relevant that we need to be informed of, at shop level, yes, we would be told..."*. Thus, the features of the Store Council would appear to mainly conform to the concept of pseudo-consultation rather than authentic-consultation. The formal information and consultation mechanisms also appear to

work quite well at the store level, but there is still some degree of frustration regarding the current communication process with the head office, especially since the store became a part of a wider group. It is also noteworthy to mention that the HR manager described the Staff Council as an “*information-giving forum*”, which is consistent with the findings of other research projects (such as: Hall et al. 2007). In other words, much empirical evidence showing that there is a strong tendency for the consultative forums to be dominated by the communication of business decisions rather than the establishment of effective and authentic consultation.

Similarly, it emerges that the extent to which employees’ views are reflected in final decisions is currently limited. In this regard, the employee representative from the finance team pointed out that the communication process is sometimes slow and it is mainly concentrated on trivial matters. She also added that there are numerous incidents of absenteeism concerning the attendance of the Store Council meetings, because some representatives are part-timers and it is difficult for them to participate on a regular basis. This is confirmed through scrutiny of the minutes, in which it can be noted that, on average, two people fail to attend these meetings. As a result, she suggested that all the people who participate in the meetings should be full-timers and highly committed in representing the employees’ interests.

On the other hand, DSM2, DSM3 and the employee representative from the finance team claimed that the information, communication and consultation arrangements, and employee relations, in general, are quite good within the store. The positive perceptions of most of the employees can be attributed to the argument of Jirjahn and Smith (2006: p. 656) that they usually “*prefer direct modes of involvement that provide more responsibility at work and promote their perceptions that the firm listens to them*”. The attitude of the store director has also significantly contributed to the development of positive perceptions by the employees, regarding employee voice mechanisms and the employment relations climate within the store.

“...*I am a great believer in participation, and the best way to get [it] is through involvement and ownership...*” (Store Director).

Another criticism made by one of the employees is the fact that no representative from the concession employees is allowed to participate in the Store Council meetings (Employee Representative from the Finance Team). In particular, she argued that at least one representative from the concessions should also participate in the Store Council meetings, because *“they are part of the store”* and should be involved in the decision-making process, and were this to happen, it would provide the opportunity for *“more information to be shared”* (Employee Representative from the Finance Team). Nevertheless, despite the fact that concession employees can not participate in the Store Council meetings, they do have separate meetings with their managers and the store director twice per year, because it is important for them to *“have a say and understand what is going on in the store”* (HR Officer). Besides, the concession employees comprise *“52 per cent of [the store’s] business...[and it would be] foolish [sic] to ignore them...”* (Store Director).

7.4.3 Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing

The level of awareness of the ICE Regulations, concerning the HR management team, is quite good and the secretary of the Store Council had acquired substantial in-depth knowledge of the legislation when she was previously working in the HR department of another organisation. On the other hand, at the time of conducting the interviews, almost all the employee representatives and even the store director were not aware of the specific details regarding the contents of the legislation. In particular, most of the individual employees severely lacked any sort of knowledge about the ICE Regulations and only had a rough idea about the function of the Store Council. For instance, the employee from the warehouse department, who had worked for the organisation for approximately one year, had only learnt about the existence of the Store Council from his colleagues in the warehouse six months after the beginning of his employment.

In general, the majority of interviewees emphasised the positive potential outcomes of the EU directives on employee participation. More specifically, it was suggested that the ICE Directive can generally *“bring into line...more structured”* arrangements across organisations (Individual Employee from the Warehouse Department). The empirical findings from this case-study reveal that the review of the Store Council

Constitution and the adoption of the Communication Policy, as set out by the head office, have enabled the company to establish information and consultation mechanisms that are consistent with its organisational needs and goals. At present, it seems unlikely that the employee representatives will challenge the current arrangements and prompt negotiation procedures for amendments, in particular given the fact that the minimum statutory threshold for triggering such change is 40 per cent of the employees. This situation concurs with the argument of Hall (2006), in which it is anticipated that in the context of the ICE Regulations, there will be numerous instances where “*broad employee satisfaction*” (p. 460) is identified regarding pre-established arrangements.

The situation in the organisation illustrates another example of a proactive management strategy that is aimed at bringing about compliance with the minimal and default requirements of the ICE Regulations, for as the HR officer argued:

“the Head Office is always in front of new legislation and policies...we obviously knew that it [i.e. the ICE Directive] was coming out, and we made sure that we were complying...”.

Similarly, the HR manager suggested that:

“...we certainly found that we obviously complied with everything included in the ICE Regulations...”.

Both of these people confirmed that they use the ACAS and CIPD websites for downloading brochures and booklets with regard to the developments in the employment law and also for getting advice on various issues, such as: the implementation of the ICE Regulations. However, it should be noted that this legislation was not brought explicitly into discussions during the Store Council meetings and the level of knowledge appears to be relatively low amongst the employee representatives. In general, the company takes a pro-active stance when required to deal with issues concerning the new employment legislation. Nevertheless, it is evident that all the main employee involvement practices were primarily initiated and driven by management, with the actual level of influence of employees in the

participation mechanisms being substantially limited. Moreover, the secretary of the council claimed that the organisation had instantly and effectively responded to the legislative requirements of the ICE Directive. In particular, she argued that:

“...this particular company has already put into practice a lot of what is said in the document [of the ICE Regulations] ... there are always plans to make things better, and generally they are coming from the HR department...and [information] is fed down through them [the HR people] ” (Secretary of the Store Council).

7.4.4 Evaluation of the ICE Regulations: Limitations and Challenges

As previously noted, the review of the Communication Policy and the Staff Council Constitution Agreement (in October 2006) were brought onto the agenda at all the company's stores in England, thereby leading to the implementation of the information and consultation arrangements in compliance with the requirements of the legislation. Nevertheless, most of employee voice mechanisms have been initiated by management, and thus, in terms of the academic literature, there has been a wide scope for “*managerial unilateralism*” (Charlwood and Terry, 2007: p. 322; Tailby et al., 2007: p. 211). That is, the company has actually reached a “*pre-emptory agreement*”, which is greatly shaped by its own “*particular circumstances*” (Geary and Roche, 2005: p. 192) and thus an organisation-specific information and consultation arrangement has been developed.

Furthermore, the HR manager and one of the section managers pointed out that the Store Council is actually an information-giving and communication forum, but without making any explicit reference to the process of consultation. In this regard, the majority of interviewees emphasised the critical role of communicating rather than referring directly to the consultation process (similar empirical findings are identified in Dundon et al., 2006: pp. 505-506). More specifically, DSM3 stated that “*rarely are the representatives consulted*”. The Communication Policy and Constitution Agreement documents, which were circulated by the HR manager during the Store Council meeting in October 2006, provide the opportunity for the employee representatives to “*consult with colleagues about matters they would like to have raised at the Staff Council meetings*” (cited in Communication Policy and Staff Council Constitution, in October 2006), but the actual scope and depth of the

consultation process is debatable, because there is no precise definition of consultation rights in the Constitution Agreement.

In addition, even though the Store Council Constitution Agreement provides the opportunity for consultation, it seems that employee representatives do not take full advantage of it and usually management is apt to set up, unilaterally, the agenda in accordance with its organisational objectives. Therefore, consistent with the empirical findings of other researchers, there is the potential pitfall for employee representatives to be “...*usually informed on decisions rather than consulted...*”, with the Store Council being largely “*peripheral*”, thus having “*negligible effect*” in the eyes of the majority of the employees (Redfern, 2007: p. 303).

Furthermore, as noted in the section 7.4.2, there is a frustration amongst some section managers regarding the communication process with the head office, for as similarly identified by other researchers, management is actually trying to restrict the influence of employees by ensuring that their representatives are “*being informed about organisational decision-making rather than being involved in it*” (Tailby et al., 2007: p. 226). Another consideration concerns the way that some employees appear to perceive the nature of the formal types of representation. More specifically, the employee from the catering department emphasised that a mechanism for employee representation does not actually exist since “...*we do not have any unions at all within the company...*” and similarly the employee from the finance team concurred with this view by saying that “...*I do not think that there is [such a mechanism]...not that I am aware of...*”. In other words, the evidence suggests that the employees perceive the Store Council as inferior to a trade union recognition agreement, because the former involves no negotiation rights.

The formally agreed information and consultation arrangements are applied through the Store Council and training sessions, but the level of influence for employee representatives, in terms of actual decision-making, is relatively low and the management prerogative remains intact. The store director tried to justify this by arguing that:

“...you listen, you consult...at the end of day, I ultimately have to make a decision, and not everybody may agree with it but at least I have been through the process... [I have done] the talking, consulting, thinking and so on...”.

Consequently, as Gollan (2006b) posits, under such circumstances there is the risk that the operation of the Store Council may result in being part of a “*weak employer-dominated*” partnership, with marginal forms of “*collective consultation*” and direct mechanisms of employee involvement (p. 643). In concurrence with the concerns of many researchers as to whether the ICE Regulations can enhance employee voice in non-unionised workplaces (Butler, 2005; Charlwood and Terry, 2007) and taking into consideration the empirical findings of this case-study organisation, it is suggested that it appears to be unlikely for the employee representatives to challenge management prerogative effectively within the current employee participation arrangements at the Yeovil store.

In addition, under these circumstances, it is argued that the ICE Regulations do not provide additional scope “*for employee inputs into decision making*” (Roper et al., 2003; cited in Hyman and Summers, 2007: p. 370). Moreover, both management and employee representatives highlighted the fact that the Staff Council meetings are mainly about information and communication rather than true-consultation and in the words of Hall et al. (2007: p. 52) the agenda usually includes “*decisions that have already been taken*”. In other words, the operation of the Store Council exhibits features of pseudo-consultation, where the employees, in practice, are chiefly informed about business decision-making and yet they have the perception that they are being consulted in a transparent and fair way.

7.5 ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces.

Discussion and Summary

Case-study three exemplifies a non-unionised organisation where well-structured and pre-established arrangements sufficiently comply with the statutory requirements of the legislation. On the other hand, interviews with the individual and employee representatives suggest that the organisation illustrates a typical case found in other

research projects, which has been termed as a “*weak employer-dominated partnership*”, where communication mechanisms prevail at the expense of “*collective consultation*” (Gollan and Wilkinson, 2007a: p. 1138). More specifically, along with the minimal compliance of employee representation with the ICE Regulations through the review of the Store Council Constitution Agreement, there is a predominance of direct communication mechanisms that take place through the staff training sessions. The open culture and good climate of employment relations, in conjunction with the absence of other business or economic pressures, have not hitherto necessitated the triggering of negotiations towards more coherent forms of consultation.

According to the employee representatives, the organisation has standard basic structures for information-sharing and consultation, with limited scope for them to exert any strong influence in management decision-making and thus true-consultation is not being provided. Moreover, the voice of the employee representatives is restricted to the local level without there being any additional roles, i.e. there is no forum or body of representation at the head office. In this vein, taking into consideration the empirical findings of the conducted research, it is argued that extending the spread of information and consultation arrangements within a multi-tiered framework would give further opportunities for the employees to articulate their voice throughout the organisation in a more consistent manner. For instance, a separate Staff Council with representatives from the head office and all the stores is one potential way of enlarging the scope and coherency of employee voice. In this regard, Hall (2005c) provides a very good example from similar case-study research, where a multi-level consultation framework was developed, with the establishment of various consultative forums at different levels of the company (store, regional, divisional and national), which resulted in enhancing employee voice mechanisms, where “*employee representatives are exhibiting a growing professionalism and effectiveness in the way they operate*” (p. 252). In addition, ACAS guidance encourages multi-tiered consultative structures in more complex organisations and identifies the need to have appropriate divisions of responsibility between the different levels (ACAS, 2005). Moreover, DTI guidance (2006) provides a detailed overview of how multi-tiered agreements can be set up across multi-site organisations.

The reviewed Constitution Agreement of the Store Council complies with the ICE Regulations and every effort has been taken to ensure that the legal compliance has been accomplished across all stores. However, these initiatives were solely based on a management initiative with the subsequent formal approval of the employee representatives. The legislation, in general, provides the opportunity for multi-tiered information and consultation arrangements that can significantly improve the communication mechanisms (Hall, 2005c; DTI Guidance, 2006). Nonetheless, the Yeovil case-study is an example where it is unlikely that the employees will challenge the well-established arrangements in the near future, because the minimal legal threshold, i.e. 40 per cent of the workforce, is considered a challenging standard in order to trigger and initiate such an action. In addition, the majority of employee representatives appear to lack the necessary expertise in order to co-ordinate any challenge to management prerogative and, in particular, they have poor knowledge with regard to their legal rights on employee involvement.

The absence of a trade union recognition agreement and the lack of union-based arrangements are important factors that need to be brought into consideration, for as the findings from this case-study organisation suggest, because without these being in place there is difficulty in sustaining coherent and efficient forms of collective voice. In other words, as similarly suggested by Terry (1994: pp. 244-245 and 1999: pp. 28-29), the empirical evidence suggests that legislative provisions by themselves are not sufficient enough to provide “*effective employee representation*” that can be subsequently sustained in a non-unionised workplace and thus all parties concerned need to provide their input equally and consistently towards the establishment of effective and pluralist employee representation structures. Finally, taking into consideration the lack of expertise and limited ability of employee representatives to challenge management prerogative through the Store Council, the evidence of case-study three serves to provide strong evidence that concurs with the arguments of Geary and Roche (2005), who suggest that “*robust forms*” of information and consultation mechanisms are most likely to exist in “*strongly unionised companies*” (p. 196).

CHAPTER EIGHT

CASE-STUDY FOUR

8.1 Organisation's Structure and Employee Representation

The fourth case-study of the conducted research concerns a US owned company, which is a supplier and merchandiser of home entertainment products, with its main customers including supermarkets and chain stores. The data collection took place at a UK site located in Warrington (where the main head office is also located) that became part of the group in 1999 and operates as a wholly owned subsidiary of the US parent company. The UK head office was relocated to Warrington in 2001 and the organisation also has a number of warehouses or district fields (in Scotland, North/South England and Midlands). After the relocation the organisational structure of the head office changed including the senior management team and managing director. The main US-company was established in 1934 for distributing pharmaceuticals and health-and-beauty aids and during the 1950s it started to distribute other home entertainment products. Currently its products include: CDs, DVDs, books and greeting cards and in addition, it provides marketing services to its customers, such as: advertising, promotions, inventory management and a varied assortment of planning services. According to the managing director of the UK site, it is *“a rapidly growing and developing company bringing a new and innovative approach to the retail distribution industry”*.

Just prior to the conducting of research and after the taking over of another undertaking (in October 2006), the total number of employees in the UK increased from 500 (350 field sales staff, 70 distribution staff and 80 head office staff) to 1,000. However, the number of employees was reduced to approximately 500 (in April 2007) after the *“TUPE-ing off [sic]”* of the same undertaking (HR Manager). It is worth mentioning that there is no trade union recognition agreement for collective bargaining purposes. Nevertheless, there is trade union membership (UNISON, Unite and TGWU) for a portion of employees that work at one of the warehouses, where approximately 150 people are employed. In September 2006, a Constitution

Agreement for information disclosure and consultation purposes was set up at the main head office of the company with a separate Constitution Agreement being devised for one warehouse in August 2007.

8.2 Interviews and Collection of the Qualitative Data

For the purposes of the research, semi-structured interviews were conducted with the HR and field support managers (November 2006), both of whom participate in the forum meetings. At the time of research, the HR manager, who had worked for the company for many years, initiated the establishment of the constitution and now chairs all of the meetings of the Consultative Council/Forum. The field support manager is an elected member of the council, who had worked for the company nearly eight years and she was able to provide a thorough insight into the workings of the Consultation Council/Forum and employee voice mechanisms within the organisation. Moreover, the interview with the HR manager lasted for about 90 minutes and provided detailed information about the recent establishment of the Constitution Agreement. In November 2007, an additional phone interview was conducted with the HR manager, who provided further evidence about the latest developments in the organisation. Finally, access was granted for the collection of relevant documentation, including the: Constitution Agreement, company's policies/practices, detailed minutes and agendas from various council meetings.

8.3 Information and Consultation Arrangements

8.3.1 Setting up of the Information and Consultation Forum – The Impact of the ICE Regulations

Evidence suggests that the impact of the ICE Regulations on the company has been quite substantial. In this regard, as a response to the requirements of the legislation, a forum was set up in 2006. Initially, an advisor was recruited in order to work on the Constitution Agreement and make some presentations to the senior management team and other managers about the main purpose and usefulness of having a Consultation Forum. Subsequently, the head of the HR department took the initiative of creating a Constitution Agreement document for the Information and Consultation Forum (initially was called ICF), with the help of the aforementioned external legal advisor/consultant. In particular, she stated that the advisor took a constitution

template (as defined by the DTI) and she “*personalised it*” according to the organisational objectives of the company. However, the HR manager explicitly made reference to the fact that the Constitution Agreement lacks innovation and is essentially a duplicated template of the statutory provisions as defined in the ICE Regulations. The Constitution Agreement took effect in September 2006 and the first meetings were held in September and November of that year. Prior to that, an election process took place through mailed letters to home addresses of employees from the: field, warehouse and vending areas. Information was given to all employees about the setting up of the forum and 79 out of approximately 500 employees requested information packs, which included all the necessary information about the forum, such as: the role of employee representatives and the purpose of meetings. In relation to this, the HR manager expressed disappointment about the level of “*apathy*” that was shown by most employees (about 2/3 of the total number of employees), who were not employed in the main warehouse in Warrington, but worked in the field districts. In particular, as the HR manager pointed out, communication with these employees was not direct and was mainly carried out by the post. Eventually, nominations and elections normally took place during the summer of 2006.

On the other hand, the election procedures at the main warehouse and head office were very straightforward. Nevertheless, there was still a general lack of interest, with only, on average, one or two nominees for each area of representation. It is noteworthy that beforehand there was no form of representation or any sort of Constitution Agreement and thus, the implementation of the ICE Regulations brought significant changes to the forms of employee voice and the representation structure at the UK site. In November 2006, the name of Consultation Forum was included as an issue for discussion, and thereafter it was renamed as BRIDGE or Bridge. According to the head of the HR department, it is a group of elected representatives, who meet quarterly and are updated on organisational issues that can include proposed changes within the business or any other events that the management team deems appropriate for discussion. In addition, the name of Consultation Forum was conceived and founded on the principle that it should:

“bridge the gap between all employees or between management and employees, and also stands for the Board for Representation, Information, Debate, and Guidance for Employees” (HR Manager).

The Constitution Agreement, which covers the main warehouse and head office, was signed in September 2006 and was subsequently approved by the management and employees, including: the site manager, the senior operative, the operative manager, the field support manager, the marketing co-ordinator, and the elected employee representatives. It is explicitly noted in the Constitution Agreement document that *“the signatories recognise their responsibilities in seeking to establish the forum in such a way as to improve the exchange of information and facilitate consultation...[and] also agree to abide by the confidentiality clause...”* (Constitution Agreement, September 2006: p. 5). Officially, the organisation recognises the importance of *“involving employees”*, because it can *“lead to improvements in performance and the success of its business”*, which can be achieved through *“direct dialogue”* in a *“spirit of co-operation”* with the employee representatives (ibid: p. 1).

Using the arguments of Hall (2005b), the Constitution Agreement seems to provide a similar scope of influence as can be normally enabled through the *“Default Requirements”* and terms of the ICE Regulations (p. 112). In particular, there is explicit reference that the organisation *“...will seek to ensure that consultation takes place with a view to reaching agreement...”* (Constitution Agreement, September 2006: p. 1). Nonetheless, it allows to the employee representatives the opportunity to articulate their opinion on the issues under consideration and subsequently to discuss with management before final decisions are taken. More specifically, consultation is clearly assigned as *“the exchange of views and establishment of dialogue between the employees’ representatives and employer”* (ibid: p. 1), but without explicit provision for any additional scope of influence in decision-making. As the HR manager noted during the interview, *“we introduced the information and consultation panel as a direct result of the ICE Regulations”*. However, according to the Constitution Agreement, the primary objective of the forum is to *“further develop the communication”* (ibid) within the company, which is mainly associated with the downward communication of business decisions and the development of pseudo-consultation and thus there is limited influence upon management prerogative by the

employee representatives. In addition, the forum was set up in a transparent and fair way so that compliance with the default provisions of legislation would be achieved (Dix and Oxenbridge, 2003).

A virtually identical Constitution Agreement was agreed upon for implementation at one of the warehouses that had recently been acquired by the organisation. More specifically, this forum was described by the HR manager as the Small Bridge or Bolton Bridge and has eight employee representatives, two of whom also participate in the wider Bridge Forum of the company. There is a considerable level of union membership at the Bolton warehouse and consequently, as the HR manager noted (in November 2007), there was an effort by the employees to endorse some sort of a trade union recognition agreement. Nonetheless, according to the HR manager, there was opposition from the employer to concede to this and through the establishment of the Small Bridge (in August 2007) the company, in effect, was introducing information and consultation arrangements so as to dissuade the employees from considering the necessity to establish a union-based form of representation. In this regard, the HR manager made a considerable effort to convince the unionised employees of the usefulness of establishing the Small Bridge, arguing that its formation would provide sufficient safeguards for them so that they would not have to follow the route of having a formal recognition agreement. In other words, the management representatives claimed that the current arrangements precluded the need for further representation, even for those already belonging to a trade union.

In sum, the company acted in order to comply with the regulations, through the enhancement of employee voice mechanisms and also used the opportunity to encourage better communication between the managers and employees with a primary focus of improving business performance. To this end, the HR manager⁵⁵ took the initiative and secured a “*pre-emptory*” agreement with employee representatives (as described in Geary and Roche, 2005: p. 192) in order to meet company’s needs and yet still comply with the default requirements of the legislation. Using the arguments of Charlwood and Terry (2007: p. 335), it is suggested that this case-study represents one of the few early post-legislation examples where a “*pre-emptive*” action took

⁵⁵ The HR manager attended seminars about the ICE Regulations, which actually led her to take the decision to create the new Constitution Agreement.

place so as to provide “*representative consultation*” at a workplace where previously there had been no such mechanism⁵⁶.

Moreover, a joint review of the Constitution Agreement was scheduled to be carried out in September 2007, but as the HR manager noted in a phone interview (in November 2007) when the time came no amendments were deemed necessary by those concerned. However, a separate Constitution Agreement had been finally signed for one of the organisation’s warehouses in August 2007. In general, both agreements shall remain in force unless terminated by the company or at least two thirds of employees ask from their representatives to do so, in which case three months written notice to the other party must be given stating the intention to terminate the agreement. In addition, the agreement can be amended by the “*mutual consent of both parties*” (Constitution Agreement, September 2006: p. 5).

8.3.2 The Composition of the Information and Consultation Forum

The ICF (as initially named) or Bridge meetings are normally chaired by the Head of the HR department (or one of HR representatives), who also at the time of the research was the co-ordinator responsible for: organising the dates and venues for the meetings, taking the necessary notes and acting as a co-secretary. Ten representatives were initially elected (in September 2006) to represent the different areas of the company, as illustrated in table 8.1 and in August 2007 two more employees were co-opted from the Bolton Bridge Forum.

When elections take place, on the date that nominations normally close, permanent employees are entitled to nominate and vote⁵⁷ for candidates from their designated election area, whilst the eligible candidates must normally have a minimum of three months service. Following the election, the candidates who top the ballot for each designated area become the representatives. Unless the circumstances require a

⁵⁶ Charlwood and Terry (2007: p. 335) have used WERS 2004 results and elicited that “...over 80% of workplaces have no form of indirect representation, confirming that, to this point at least, few, if any, employers had been stimulated by the imminent enactment of the ICE Regulations to take pre-emptive action by introducing representative consultation where none existed before. However, that does not mean that nothing is happening...”.

⁵⁷ The voting for all elections is based on the first past the post (FPTP) electoral system. Furthermore, a variety of voting options can be additionally used. Voting normally takes place in the workplace but e-mail and postal voting are also used.

change, the minimum term of office is one year and the maximum is three and at the end of each year representatives are asked to confirm whether they wish to continue with their duties.

Area of Representation	Location/District	Post
Field Districts	Scotland and North England	FSR
Field Districts	North/Midland	FSR
Field Districts	East, West and South Midlands	FSR
Field District	South England	FSR
Field Management	South England	DM
ADC ⁵⁸ Management	Irlam	Site Manager
ADC 1st Shift	Warrington	Senior Operative
ADC 2nd Shift	Warrington	Operative
Head Office Management	Warrington	Field Support Manager
Head Office	Warrington	Marketing Co-Ordinator

Table 8.1: Composition of the Participant Representatives on the Information and Consultation Forum (i.e. the Bridge Council) at the Main Head Office and Warehouse (Source: Minutes of the Bridge Council, November 2006: p. 1).

8.3.3 The Purpose and Role of the Information and Consultation Forum Meetings

As stipulated in the Constitution Agreement, the ICF or Bridge meetings involve the exchange of views on a range of issues that appear to closely match with the default requirements of the ICE Regulations:

“...recent and probable developments of company’s activities and economic situation; changes in company’s activities, production and sales; changes to employment and potential threats to employment; changes in work organisation; changes in contractual relations; specific statutory provisions and their impact, such as collective redundancies, business transfers, health and safety; company policies, training and development, equal opportunities” (Constitution Agreement, September 2006: p. 1).

⁵⁸ Automated Distribution Centres (ADCs) are used for product packaging and shipment to the customers’ stores.

The HR manager claimed that the company wide council's ability to "*serve [company's] purposes in terms of TUPE and Redundancies*", was the guiding factor that stimulated her and the HR management team to set up the Constitution Agreement. Similar to most of the findings in the other three case-studies of this research, the Bridge Council conforms to the ad hoc development of an organisation-specific information and consultation arrangement that is based on the temporary needs and organisational objectives of the company. In other words, the consultative council, in this case-study organisation, has evident features that conform to the concept of legislatively prompted voluntarism.

The chairperson is responsible for compiling the agenda, which is subsequently sent to all management and employee representatives prior to the meetings. Changes can be proposed by the meeting participants, who contact the chairperson if they wish to do so and the final decision on contents of the agenda rests with the chairperson. Therefore, this indicates that HR management is still in control of the setting up and structuring of the agenda meetings. In exceptional circumstances, extraordinary meetings can be called and all representatives are given "*as much notice and information as possible*" (Constitution Agreement, September 2006: p. 3). The chairperson is also responsible for ensuring the preparation of minutes, which should be distributed to all representatives within four weeks after the meeting. In addition, the company is responsible for providing training to the representatives on: specific business matters, the interpretation of financial data, the conduct of the meetings and communication skills.

Employee representatives are expected to communicate to the employees concerned all the information that they have received during the meetings. They can also use the company's internal communications tools in order to disseminate information to their respective areas, in line with the company rules. During the meeting that was held in November 2006, the roles and responsibilities of employee representatives were put on the agenda and discussed. In addition, according to the minutes, they were asked to gather the views and ideas of their colleagues regarding their roles and issues that can be raised at the forum meetings. Subsequently, the representatives were expected to listen, understand and question information presented at these meetings and

afterwards they had to feedback the relevant information to the employees that they represent.

Every effort had been made to ensure that the Constitution Agreement complies with the minimal provisions of the regulations and provides a well-structured forum so that effective communication can take place. Nevertheless, the scope of consultation has been constrained within specific boundaries and management prerogative cannot be challenged under these arrangements. More specifically, according to the Constitution Agreement:

“... the consultation process will not affect management’s prerogative to take appropriate decisions at the time required by the business and does not therefore need to take place before the decision is taken ...” (Constitution Agreement, September 2006: p. 3).

In spite of the limited influence that the employee representatives can exert upon management decision-making, the Constitution Agreement explicitly defines that the consultation process has the goal of reaching an agreement through the exchange of views and establishment of dialogue between the employee representatives and employer. In accordance with the arguments of Millward et al. (2000), it can be argued that under these circumstances consultation is actually downgraded to communication of business-decisions. That is, features of pseudo-consultation are evident when management is simply ensuring that employee representatives perceive the process of business decision-making as fair and transparent and is not concerned with effective consultation. Taking into consideration the default provisions of the statutory rights, as explicitly assigned by the ICE Regulations, the Constitution Agreement in this case can be described as a relatively inferior arrangement where collective rights of true consultation are hardly sustained in practice, as the key aim is to conform to the minimum provisions under the legislation.

8.3.4 Agenda and Issues for Discussion During the Information and Consultation Forum Meetings

Before the first meeting that was held in September 2006, there was a morning training session and this was to be replicated for the forthcoming council meetings in

the foreseeable future. The issues covered at this meeting were: company business results (including comprehension of the balance scorecard), new business issues, the first and second forthcoming TUPE scenarios, HR issues, changes in employment legislation, training and development issues, follow-up actions and items for the next agenda. Most emphasis was placed on issues to do with the first TUPE scenario, involving Q&A sessions for the employee representatives and briefings to the management team that were led by the HR manager, who noted that the first meetings were more about “*me giving the information*” and highlighted the early nature of the council.

The following meeting, held in November 2006, was the first to have a fixed agenda, with the main issues discussed being the laying out of the remit and purposes of the forum. According to the minutes of the council meeting, as issued on 16th November 2006, the main areas that the forum is to cover are: financial/production/employment issues, future and current legislative changes, future plans, training strategy, diversity issues and technology changes. The areas that are excluded include: health and safety issues (these are dealt with in a separate committee), ‘tea and toilets’ issues, individual areas (these should be covered by the manager in locality or brought to the attention of facilities), pay negotiations and also areas that management should directly communicate or manage in accordance with its expected role. From this it can be seen that it is explicitly documented that the Bridge Council is not a negotiation forum and that there are no opportunities for management prerogative to be substantially challenged. In addition, if everyday issues are brought forward by the representatives for discussion, they will not be put on the agenda and the employees or their representatives who are expressing these concerns will be advised to talk about them directly with their own manager (HR Manager).

A training session was also held on the same day, which took the form of a finance awareness workshop. In particular, there was a presentation entitled Business Awareness workshop, which covered: terminology, company structure and policies, understanding finance and financial jargon, and interpretation of performance. The field support manager referred to the agenda of the forum:

“... we did some financial training... we are progressing now with new projects [i.e. TUPE scenarios]... if [someone] is unhappy with the bonus scheme/structure that is something that we can bring to the table...”

Legislative changes regarding maternity leave and pay, which were to come into effect in April 2007, were also included on the agenda. Another issue that was brought up was the second TUPE scenario that was connected with one of the organisation's projects (the first TUPE scenario had occurred on 23rd October 2006). The head of the HR department brought up the implications of transferring staff and pointed out the potential effect of having slightly different terms and conditions. More specifically, the agenda involved the TUPE scenario, which included: implications and measures, the date that the transfer is going to take place (i.e. in April 2007) and its reasons, legal, economic and social implications of the transfer, the potential measures that are envisaged to be taken in relation to the affected employees, and finally the consultation process. Another important issue that was pinpointed afterwards, in March 2007 session, was the lack of team meetings, which had been making communication between employees and management more difficult. As a result, it was advised by the HR manager that managers in the head office and field districts should address this problem and consequently, ADCs began to have daily team meetings.

As the HR manager argued, if the Bridge Council continues to be a company wide employee voice arrangement, then the discussions will have to stay focussed on the issues set out in the Constitution Agreement, as outlined above. On the other hand, if they become site-based, then the nature of council will be open to debate. In sum, in this evolving environment, it is the management that has been controlling the structure and agenda of the meetings and owing to this, the management has been mainly dominating the Bridge Forum in terms of what sort of information is shared, which is in accordance with the company's policy. In other words, the case-study illustrates an example in which a unitarist establishment of a Constitution Agreement is imposed and results in a functional form of employee participation, but one that has no impact upon management prerogative.

8.4 ICE Regulations: Current Attitudes of Trade Unions, Individual Employees and Management

8.4.1 Employee Involvement Arrangements and Representation Structures⁵⁹

At the head office and main warehouse there are usually employee briefings once a month, in which the managing director and manager of the warehouse also participate. A variety of issues are normally covered during these briefings, such as: recognition awards, long-service awards and computer-based training awards. Newsletters are also regularly issued and it should be noted that changes in communication strategy were implemented during the previous years, especially since the undertaking became a subsidiary of the US parent company. For instance, four years before the conducting of the research, employee voice arrangements were mainly based on downward communication to the employees.

“my communication strategy, of the first two or three years, was just to feed the information down, and not worry about information feeding-up through formal channels...then, (say three years ago)... [in order to] strengthen the communication channels, we needed to start and have a more upward communications, and I started to put some pressure on managers to do team-meetings” (HR Manager).

In addition, at the time of the research, management forums were recently instigated and now usually take place once a month. The HR department also sets up employee round tables with the purpose to get feedback from employees, in particular from those that have been recently recruited to the company.

The HR manager also tries to encourage team meetings in all the company's departments, because at the time of the research there was no consistency in this matter. For instance, in the IT and Finance departments, such meetings were rarely held, mainly due to the fact that the managers did not express much enthusiasm for them. Whereas in the ADCs and warehouses, team or operational meetings were taking place everyday in the morning and the outcomes were cascaded down to all team members. In addition, the HR manager also pointed out that the situation at the

⁵⁹ Further detailed information, about the level of direct and indirect voice mechanisms at the head office and main warehouse, and also the content and issues included in the information and consultation meetings are provided in the appendices and notes.

head office needed to be improved and was encouraging the holding of more regular team meetings. Furthermore, the communication with the fields takes places in various ways including: emails, verbal communication with managers, the newsletter entitled as Company's Staff and product updates with booklets and hardcopies. In fact, it turns out that until the establishment of the ICF or Bridge meetings, employee voice mechanisms were based on forms of direct participation. Moreover, the forms of communication were actually a downward flow of information to the employees, which left managerial prerogative completely intact. Even now, after the creation of the forum, employees have relatively limited influence and input in the decision-making process. The fact that there is no union recognition agreement is another reason why the management prerogative cannot be substantially challenged and this also restricts employee voice. Moreover, because the employee representatives have not received comprehensive training they have been unable to effectively intervene when harsh decision-making events arise.

8.4.2 Benefits and Problems of Sustaining the Information and Consultation Arrangements

Both the HR manager and field support manager have positive perceptions about the importance of the consultative council:

"Information-sharing helps the people, within an organisation, to understand the bigger picture and make connections that will improve things in immeasurable ways...I believe communication is vital and employees should have a voice and should be consulted as they often have a better understanding of what actually happens..." (HR Manager).

It is noteworthy to mention that both pointed out the importance of communication, rather than making an explicit reference to the notion and significance of consultation:

"We can find out what people need to know... [employees] want to hear things but they just do not know who to approach, [they] do not have the time to do it, [but] now, there is an established group to deal with it...I think communication is the key for any successful business..." (Field Support Manager).

On the other hand, according to the HR manager, one of the main problems in developing information and consultation arrangements is deciding upon the optimum number of employee representatives. More specifically, she added that it is questionable to what extent it is possible to deal effectively with employee representatives, who are *“scattered across the whole country”* in different districts. Furthermore, *“time and cost are prohibitive”* in developing further the company’s council and thus she proffered that *“we have a way to go on [in order] to make it more effective, [but] lack of knowledge of how to move it forward”*. Similarly, during the interview, the field support manager suggested that lack of time is a hurdle and needs to be overcome, whilst communication mechanisms need to be enhanced so as to become broader, given that a substantial number of employees are remote from the main head office (i.e. employees that work in the field districts).

Another issue that was pinpointed by the HR manager is the fact that it is necessary to:

“gain commitment from other senior managers to support the information flow... [and]... time or resources to have a proper flow of information”.

At the time that the research was conducted, the field support manager emphasised that the Bridge Council was still in its early stages and she and other members of the forum were still finding it difficult to understand clearly their own role:

“...we are just learning about what is a consultation panel [in November 2006]...we are just setting out on learning curve at the minute, but I think that after maybe a year we may all feel and know exactly what we are aiming for...[at the beginning] I was slightly confused about what my role was. Now, my role is established – I feel a bit more comfortable with it. Just knowing what actually I expect from it!” (Field Support Manager).

The HR manager pointed out also the benefits and usefulness of having the Bridge Council meetings, by stating that they improve *“...communication and give the employees an outward feedback channel...”* and as a result there is *“a better motivated workforce”*. In addition, in her view, the main aims are to *“keep the*

momentum going”, by ensuring that the necessary reviewing takes place and employee representatives are consistently trained so that the council will be more effective. Another issue, which was highlighted by her, was the fact that it is important for the company to be ready when harsh decision making is needed (e.g. collective redundancies) and yet comply with the statutory requirements of the ICE Regulations.

8.4.3 Evaluation of the ICE Regulations: An Opportunity for Changes and Reviewing

Similarly to the head office in case-study two, where “*strategies and objectives of non-union voice arrangements*” (as adapted in Gollan 2000: p. 415; cited in Dundon and Gollan 2007: p. 1190) are in evidence, it can be argued that the ICF is an arrangement that has been set up to be a “*complement to management decision making*” (ibid); one that has been legally-imposed and is based on management initiative.

In terms of the academic literature, the constitution of the ICF or Bridge forum is a prime example of the “*flexible*” and “*reflexive*” nature provided by the ICE Regulations, given that it allows a great range of choices for the employer to develop information and consultation mechanisms so that they are tailored to meet organisation’s strategic objectives (Barnard and Deakin, 2000: p. 341; cited in Hall, 2006: p. 456). It can be also described as a “*managerially-motivated*” device of involvement and participation that seeks “*co-operation*” through information-sharing and consultation (Marchington, 2005: p. 24). In general, the HR manager expressed the view that the ICE Regulations “*facilitated the move towards the ‘Information and Consultation’ group*”.

In accordance with the arguments of Johnstone et al. (2004), the situation that is revealed in this case-study is an example in which the ICE Regulations have provided “*management with an ideal opportunity to introduce non-union consultative structures*” (p. 373). Furthermore, the absence of a trade union recognition agreement has meant that management can deal directly with the employees without running the risk of being drawn into a partnership agreement that could potentially “*slow down decision making*” or “*challenge managerial prerogative*” (ibid: p. 355). In addition,

given the current situation, it is unlikely that there will be any potential outside involvement (i.e. by a trade union) in the decision-making process in the near future, because under the constitutional arrangements, which were introduced due to the ICE Regulations, the bargaining process is being contained within the organisation and thus, management prerogative still prevails.

Drawing on the academic literature, case-study four illustrates a scenario where the legislative developments have led to responses within the “*traditional voluntarist policy*” (Hall and Terry, 2004: pp. 208-209), as typically found in most of UK workplaces. That is, in this case-study organisation the established employee representation mechanism had been guided by the management team, so as to fit with the minimum standards before more challenging arrangements emanating from the workforce could be proposed. In particular, the main stimulus, which would appear to have “*influenced the HR manager thinking*” (HR Manager), was the TUPE scenarios of two undertakings that were connected with the company’s projects. That is, these events formed the triggering means for setting up the consultative forum, which subsequently resulted in the organisation-specific information and consultation arrangements. In this regard, the HR manager pointed out:

“one of the aims of yesterday’s meeting [held on 16th November 2006] was to talk about the TUPE scenario... and the fact that at the end of it, it may mean that [sic]... we may have some redundancies...due to economic and financial constraints”.

Likewise, the field support manager emphasised the importance of the forum in relation to the TUPE scenarios:

“I think it [i.e. knowing about the objectives of the Bridge Forum] would be nice for all the new people that are transferred over from another company to our business ...[because] they may feel now that they know a bit more about our company and [can become] part of it...”.

In sum, the key factor, with regard to the reason that led the HR manager to decide on setting up the Bridge Council, was to enable a safe compliance with the requirements of the legislation and to establish ad hoc consultation rights in relation to

redundancies and transfer of undertakings (as it is also defined in the Constitution Agreement). In particular, the TUPE scenarios described above were key drivers in the formation of the council and important focal points during the early years of its existence. Using the terminology of Hall et al. (2007: pp. 18-19), it can be argued that the TUPE scenario was a “*strategic factor*”, which was employed by the HR management team in order to establish and develop the consultation forum as soon as the organisation had to comply with the statutory requirements of the legislation.

8.4.4 Evaluation of the ICE Regulations: Limitations and Challenges

Certainly, it can be argued that the ICF or Bridge meetings were a major development for the company, because no equivalent form of representation structure had existed beforehand. Moreover, the empirical evidence reveals that the company was trying to address the representation gap by setting up an “*indirect non-union representative participation*”, as has been recognised in similar circumstances by other researchers (Gollan et al., 2006: p. 505). However, one of the main limitations of the Bridge Council is connected with the fact that it was an initiative taken by the HR manager, which was essential because the employees did not have the necessary co-ordination skills or other expertise so as to be able to engage proactively in the composition of the information and consultation arrangements. As a result, the Constitution Agreement, as compiled by the head of HR department, was approved without any opposition by the employee representatives, and thus compliance with the default and minimal provisions of the ICE Regulations was achieved by the employer.

Similar to case-study three, the absence of a union-based arrangement has resulted in low levels of expertise for employee representatives in relation to their collective consultation and negotiation skills. Nevertheless, it is noteworthy to mention that the head of the HR department has been organising workshops and training sessions so as to improve the skills of representatives and thus enable them to have a more effective voice. Drawing on the academic literature, the current Constitution Agreement at this company provides a good example of a “*pre-emptory agreement*” (Geary and Roche, 2005: p. 192), which is based on the principles of “*legislatively prompted voluntarism*” (Hall and Terry, 2004: p. 226) and is likely to remain functioning as an organisation-specific arrangement that is strongly connected with the company’s objectives and given circumstances.

One of the main criticisms that can be made about the contents of this Constitution Agreement is concerned with the limited scope of action for employee representatives, because there is certainly no provision for questioning and challenging management prerogative. In this regard, the Constitution Agreement explicitly states that:

“consultation process will not affect management’s prerogative to take appropriate decisions at the time required by the business and does not therefore need to take place before the decision is taken” (Constitution Agreement, September 2006: p. 3).

Moreover, the scope of consultation rights appears to be constrained within a set of specified issues and this matter is also explicitly written in the agreement document. Apart from this, in one of the meetings (in November 2006) it was clearly denoted that the forum cannot involve negotiations over distributive issues, such as: pay, terms and conditions etc. The HR manager, as chairperson of the forum, explicitly referred to this issue and argued that:

“...we do not want to get into pay negotiations with them [employee representatives], it has been very clear that this is consultation not negotiation...and that is the part of training: the difference [between consultation and negotiation]!”.

As a result, management prerogative remains evident even under the new arrangements, because the ability for employee representatives to challenge management decision-making is still strictly limited. In fact, the Bridge meetings cannot cover *“areas that management should communicate or manage”* (Minutes of the Bridge Forum, November 2006: p. 3), while issues concerning pay and negotiations are explicitly excluded. This brings into question whether there is scope for any meaningful consultation for the employee representatives. Moreover, the limited opportunities for the representatives are underlined further by the fact that the Bridge Council appears to rest upon management initiatives (including: the setting up of agenda, information-sharing, communication of business-decisions, reviewing etc) that have been generated primarily by the HR department. As a result, in accordance with the terminology that is used in the academic literature, the Bridge Council may end up to be an *“element of employee voice [that is] very weak”*, in particular because

the agenda and organisational objectives are set unilaterally by management (Marsden, 2007: p. 1263).

Taking into consideration the arguments of other researchers (such as: Redfern, 2007; Tailby et al., 2007), case-study three illustrates an example where information-sharing and communication procedures are more evident than effective involvement of employee representatives in the consultation process. In this regard, Wilkinson et al. (2007) concur with the view of Hall (2005a) and suggest that “...*management may aspire to inform employees [but] this is not the same as consulting or engaging with workers...*” (Wilkinson et al., 2007: p. 1289), because managers are generally reluctant to introduce consultation arrangements “*as these threaten their prerogative*” (ibid: p. 1294). During the period of empirical research, the HR manager pointed out that employee consultation had not hitherto been a significant issue for debate or concern at her workplace. This concurs with the view of Butler (2005: p. 285) that in non-unionised workplaces it is highly unlikely for management to cede power in relation to its “*traditional prerogative*” or even to abolish the “*right to unilaterally determine key issues*”, because the provisions of the ICE Regulations cannot enforce the introduction of effective employee voice arrangements under such circumstances.

According to the available literature (Williams and Adam-Smith, 2006: pp. 185-186), non-union systems of employee representation are usually ineffective, lacking “*legitimacy among the workforce*”, “*being seen as too closely controlled by managers*”, and as a result, the employees do not have an “*independent voice*”. Furthermore, similarly with the findings of this case-study organisation, Terry (1999) generally points out that the influence of unfavourable economic and business conditions, such as collective redundancies and TUPE scenarios, may constrain the ability of employees to challenge management prerogative, especially in relation to distributive issues (cited in Williams and Adam-Smith, 2006: p. 186).

Using the terminology of other researchers, with regard to the management strategy towards a union recognition agreement, this case-study organisation clearly has engaged in the strategy of “*union avoidance*” (Dundon and Gollan, 2007: p. 1189), with “*ideological hostility*” (ibid: p. 1191) towards any sort of union representation. In this regard, the HR manager emphasised that:

“...they [i.e. the owners of the company] would look upon it very badly if we got trade union recognition request – seeing me as having failed in my job!!!” (HR Manager).

In particular, the employer opposition towards any form of union-based representation is clearly illustrated by the recent attempt of employees in the Bolton warehouse to establish a union recognition agreement, as the HR manager pointed out that such developments would not be welcomed by the US owner. Moreover, as similarly found in the available literature and already discussed, case-study four actually provides an example of an employer who is trying to develop forms of “*direct participation*” along with “*indirect non-union representative participation*” (Gollan et al., 2006: p. 505), resulting in what Dundon and Gollan (2007) describe as a “*non-union employee voice outcome*” (p. 1185) driven by orientations of “*union avoidance*” (p. 1189) and “*ideological hostility*” (p. 1191).

Therefore, even though the Constitution Agreement provides a substantial scope for information-sharing and communication in accordance with the contextual framework of the ICE Regulations, it is questionable to what extent employee representatives can have a real influence on decision making and establish effective voice, especially when pay and conditions come under threat during times of harsh economic and business conditions. For instance, the implementation of the TUPE projects caused financial difficulties and job losses, affecting also the terms and conditions of the employees, such as pay and compensation schemes, while the evidence of this case-study underlines the fact that the employee representatives cannot challenge the management decision making on such matters. In essence, taking into consideration the strategies that are identified in the academic literature (such as: Gollan and Wilkinson, 2007a), it emerges that the case-study organisation has mainly enhanced information-sharing and communication arrangements that ensure the minimal compliance with the required consultation provisions of the ICE Regulations rather than really promoting true-consultation or collective bargaining.

During the conduct of the case-study research, it was still unclear what would be the actual impact of the TUPE scenarios with regard to the extent to which the employee representatives could effectively respond to this challenge. Taking into consideration the agreed constitution, the strictly limited scope of consultation and the lack of

negotiation rights, it is contended that the findings indicate that the Bridge Council is a well-structured forum that: entails full compliance with the statutory requirements, improves significantly the internal communication mechanisms and establishes a legitimate information and consultation body of collective representation for the first time at this organisation, as required by the ICE Regulations. However, given the poor coordination amongst the employees and their lack of knowledge with regard to their statutory rights, it appears that the employees are not able to take full advantage of the provisions that are granted to them through the establishment of the Bridge Council. In fact, the general lack of awareness of the employees about the ICE Regulations has led to a unitarist imposition of a non-union based arrangement that is functional for the organisation and yet compliant with the statutory legal framework.

On the one hand, the Constitution Agreement provides a consistent device for establishing and enhancing employee voice, whereas on the other hand, it is evident that: collective consultation rights are relatively constrained, managerial prerogative remains unchallenged, management still appears to control the agenda and employee representatives lack the required experience. Similar to the research findings of other projects (Hall et al., 2007: p. 52), it is suggested that management tends to just inform employee representatives about the “*company developments rather than seeking to engage in consultation*”, though this conclusion could be attributed to the fact that the Bridge Council/Forum was still in its early stages of its development at the time of research. However, despite this, given the provisions of the Constitution Agreement, the Bridge Council is actually an inferior arrangement that grants minimal provisions to the employee representatives, whilst securely complying with the default requirements of the legislation and therefore, it is argued that the Constitution Agreement should have been developed in a more pluralist manner involving a wider agenda of issues for consultation with the employees.

Using the terminology that is cited in the academic literature, the Bridge Forum can be described as a non-union indirect channel of employee voice and it can be argued that its effectiveness depends on the extent to which “*high levels of trust between management and employees*” can be sustained (Dundon and Gollan, 2007: p. 1186) in order to achieve “*the expected long-term mutual benefits*” through the established information and consultation arrangements (Beaumont and Hunter, 2007: p. 1242).

Currently, it is a great challenge for the employee representatives to become actively engaged in the forum, in terms of developing open and honest communication with the management team and being allowed to play an effective role in decision-making. Finally, the findings of the case-study research concur with the view of other researchers that the effectiveness of such a forum depends on the development of trust (Dundon and Gollan, 2007) and the mutual consideration of “*the changing needs of both parties*” (Marsden, 2007: p. 1263).

8.5 ICE Regulations: Potential Developments and Options to Enhance Employee Voice and Democracy at the Workplaces.

Discussion and Summary

Case-study four involves the most recently established new employee voice arrangement of the four cases of this research and the organisation now complies with the statutory provisions of the legislation after an HR led initiative to develop a Constitution Agreement in September 2006. Similar to the findings at the head office in case-study two, the main stimulus for establishing the two new arrangements was the necessity to conduct collective redundancies and TUPE scenarios, in accordance with the legislative provisions. As a result, the arrangements in this case-study have emerged as being in line with the framework of legislatively prompted voluntarism, with organisation-specific information and consultation arrangements being developed.

The lack of co-ordination among the employees, coupled with their lack of the necessary knowledge, discouraged them from taking the initiative and triggering negotiations for the establishment of new consultation arrangements. Moreover, there was the complete absence of any union-based arrangements and all of this combined to allow the HR manager to take the initiative unilaterally with regard to the development of the Constitution Agreement, thereby enabling the development of an indirect form of employee involvement that is functional, but it appears to be unitarist to all intents and purposes. Furthermore, the lukewarm enthusiasm from the employees, as evidenced by the limited number of them who volunteered to participate in the elections, led management to establish a Constitution Agreement that is strictly based on organisational objectives and needs. In sum, this case-study

reflects an example where the ICE Regulations can provide opportunities for substantial changes and adjustments in information and consultation arrangements in non-unionised workplaces that lack strong representative traditions.

Once established, the vibrancy of consultation arrangements, such as the efficacy of the Bridge Forum, depends on the active involvement of all parties (i.e. management people and employees), while mutual consideration is also essential for their *“changing needs”*, as similarly suggested by Marsden (2007: p. 1263). Other authors have cited that *“mutual trust”* and *“high commitment”* amongst the partners are important prerequisites for the development of true and authentic consultation (Dix and Oxenbridge, 2003: p. 73). Nevertheless, the predominance of unitarist features in the established indirect employee voice arrangement at the case-study organisation is quite evident, with the agenda of meetings explicitly precluding *“pay negotiations and also areas that management should communicate or manage”* (Minutes of the Bridge Forum, November 2006: p. 3), whilst the Constitution Agreement defines consultation as a process which *“will not affect management’s prerogative to take appropriate decisions at the time required by the business and does not therefore need to take place before the decision is taken”* (Constitution Agreement, September 2006: p. 3). Therefore, this coincides with the findings of Hall et al. (2007), who contend that *“...the balance of activity on information and consultation bodies was weighted towards information rather than consultation, and often concerned decisions that had already been taken...”* (p. 52). In other words, the unilateral setting up of this Constitution Agreement has actually resulted in a mechanism of communication with strictly limited consultation rights for the employees and evident features of pseudo-consultation, rather than effective collective representation or a form of true-consultation. The introduction of the Bridge Council also precludes, or at least minimises to a great extent, the possibility of the employees challenging and/or re-negotiating the information and consultation arrangements, because the support of 40 per cent of the employees would be needed to initiate this process. Taking all the above into account and using the academic terminology, it can be concluded that at this particular company a *“pre-emptory agreement”* (Geary and Roche, 2005: p. 192) was established, in which the roots of voluntarism are strongly evident, but this agreement can be hardly challenged because of the aforementioned threshold requirement for triggering any adjustments towards employee voice arrangements.

In August 2007, the establishment of the Small Bridge Council, in the weakly unionised warehouse in Bolton, was made under a climate where the employer and management showed a strong aversion to any sort of a trade union recognition agreement. Within the context of anti-union companies, the ideological hostility towards collective agreements has also been highlighted by other researchers (Hall et al., 2007, 2008 and 2009; Dundon and Gollan, 2007). In this particular case-study organisation, the HR management team deftly rejected the attempt by the unionised employees to acquire a trade union recognition agreement, arguing that there was only a small minority of unionised employees while the Small Bridge Council would cover the entire workforce. Eventually, the unionised employees were unable to have sufficient support to counter this position. As yet, although the employees have union representatives on the consultation forum, there is still no formal trade union agreement.

Nevertheless, the two established Bridge Councils provide a mechanism of employee voice that did not exist beforehand. Both councils can be seen as giving the unionised workforce a foothold in the realm of consultation that may be subsequently converted into a trade union recognition agreement, in the future, if the unionised representatives enhance further their influence and the efficacy of their voice. That is, even though there is no current trade union recognition agreement in the Bolton warehouse, the statutory provisions of the legislation can provide further opportunities that can act as “*a catalyst*” for potential changes to the current representation structures and additionally stimulate the involvement of organised labour (as it is similarly suggested in Ewing and Truter, 2005: p. 641). In other words, the ICE Regulations can also create opportunities in unionised workplaces, especially if there is minority membership and absence of a trade union recognition agreement. Nonetheless, the employees in case-study four did not challenge the Constitution Agreement and there were no protracted negotiations when its template, which had already been adopted in the head office and main warehouse, was likewise proposed and subsequently accepted for replication in the Bolton warehouse. In particular, on the one hand, it appears that the lack of high union membership constrained the available options for the employees, but on the other hand, the aforementioned developments in response to the ICE Regulations have led to the establishment of consultation arrangements that can possibly provide an alternative pathway for the development of collective

representation for the unionised employees. In this regard, in concurrence with terminology that is used in the academic literature, the unionised employees can potentially use the consultation forum as a “*prelude to negotiations*” and subsequently in the future they can also expand the scope of their voice (Bratton, 2007b: p. 460). Such an instance is also described by Gospel and Willman (2005: p. 142), who suggest that: “... *where unions have no [formal] presence, [they] will have little choice but to accept what employers may put into place...*” and consequently the employees will have to assess whether such arrangements will become an effective form of employee voice. As previously noted, if the employees are dissatisfied with the outcomes of employee voice arrangements, the ICE Regulations still provide the opportunity to challenge the current agreed constitution, but a higher threshold is needed in order to trigger this process for negotiations as soon as a PEA is already in place (i.e. 40 per cent). Thus, although in theory the legislation allows for employees to call for negotiations for better and more effective employee voice arrangements in the future, in reality this is hardly likely to happen in such circumstances, because the employees lack the required co-ordination.

CHAPTER NINE

DISCUSSION OF THE RESEARCH FINDINGS AND EMPIRICAL EVIDENCE

9.1 Organisational Responses to the ICE Regulations: Evidence and Comparative Overview of the Case-Studies

This case-study research provides original evidence and thorough insight about the initial responses of British organisations and implications in light of the implementation of the ICE Regulations (table 9.1 provides an overview of the empirical findings). In this regard, according to the academic literature a notable debate has been developing about the potential outcomes and prospects of the ICE Directive before and after its official transposition and implementation in the UK context. The issue is still at the centre of academic research that focuses on employee participation and involvement at UK workplaces and it is anticipated that it will remain so in the forthcoming years, because the last stage of the phased implementation of the legislation, concerning the lowest threshold of organisations, was just rolled out on 6th April 2008.

As it has been similarly suggested in previous empirical findings compiled by Hall et al. (2007), the evidence from the case-studies indicates that the transposition of the ICE Directive has not led to any significant changes in unionised workplaces, where the trade union recognition agreements already provide sustained consultation and negotiation rights. In relation to the research in this thesis, at the Manchester site in case-study one, the analysis indicates that employee voice is already powerful enough for the union representatives to exert some control in decision-making, as consultation and negotiation arrangements were established before the implementation of the ICE Regulations. That is, in general the pre-established union-based arrangements are considered to constitute a superior form of employee voice, in comparison with the statutory provisions of the ICE Regulations. However, also in line with the findings of other research projects, in some non-unionised workplaces and especially in those where there has been no structured representation beforehand, the regulations

emerged as being a “*catalyst for change*” (ibid: p. 72), such as the introduction of the consultative council at the head office in case-study two and the Bridge Forum in case-study four. Nevertheless, in relation to the direct forms of employee involvement, especially where these already existed, the evidence indicates that the ICE Regulations have not brought any substantial changes or improvements.

	Workplace	Number of Employees (approximately)	Sector	Union Recognition Agreement	Trade Union Membership	Information & Consultation Arrangements
Case-Study 1	Felixstowe site	250	Manufacturing of electricity meters	Yes (agreement with Unite, i.e. former recognition agreement with AMICUS and the TGWU)	51%-70% (only for production and direct workers)	1) Pre-existing Information and Consultation Council and Review of the Constitution Agreement in March 2005 (coverage for all employees). 2) Separate union-based negotiation body (for production and direct workers)
	Manchester site	180	Manufacturing of gas meters	Yes (agreement with the GMB)	91%-100% (only for production and direct workers)	1) Non-compliance with the ICE Regulations. 2) No arrangements for the non-unionised employees (indirect workers). 3) Union-based consultation and negotiation body for production and direct workers
Case-Study 2	Head office in Somerset	1000	Central administration	No	N/A	Setting up of Information and Consultation Council in January 2005
	Depot sites in Bridgwater	550	Warehousing, retailing and distribution	Yes (three separate agreements with USDAW and the TGWU for different sections of workforce)	51%-70% (coverage for all the employees)	1) Two JCCs (pre-existing arrangements already in place). 2) Three separate union-based consultation and negotiation bodies
Case-Study 3	Yeovil store	300	Retailing, fashion and home-ware	No	N/A	Pre-existing Information and Consultation Council
Case-Study 4	Head office in Warrington	600	Warehousing, wholesale and distribution	No	Only at the Bolton warehouse: (approximately 10% membership of UNISON and Unite)	1) Setting up of Information and Consultation Forum/Council in September 2006. 2) Setting up of a separate Information and Consultation Forum at the Bolton warehouse in August 2007

Table 9.1: Overview of Empirical Findings from the Case-Study Research.

In relation to the indirect forms of employee involvement, no changes were made at unionised workplaces as a result of the legislation and even the review of the Constitution Agreement, in case-study one, did not bring about any significant changes. In addition, at the Felixstowe site, the consultation forum dates back to actions taken (in 1998-99) with regard to the statutory provisions on “*Employees’ Information and Consultation Rights on Transfers of Undertakings and Collective Redundancies*”⁶⁰ and not as a direct result of the ICE Directive. Similarly, the employer initiated consultation arrangements, as observed in case-study four, were initially stimulated due to harsh decision making on issues that included collective redundancies and TUPE scenarios in 2006 and 2007.

In case-studies: one, two and three, there were a variety of constitution agreements for information-sharing, communication and consultation with the employees, even before the implementation of the legislation, but only in case-study three did the company fully comply with the statutory requirements before the transposition of the ICE Directive. In case-studies one and two, there were pre-existing agreements for specific undertakings or sites of the organisations, whilst only at the Felixstowe site in case-study one was there a review of the Constitution Agreement as advised by the HR management. Furthermore, the case-study four and the head office in case-study two, are examples in which the ICE Regulations are viewed “*as a catalyst for the change*” with regard to employee involvement arrangements, where the HR management unilaterally took the initiative to: develop, modify and establish information and consultation arrangements in accordance with the statutory and legislative provisions, a situation that has similarly been identified in other case-study research (Hall et al., 2007: p. 72).

Considering case-study two in some detail, the organisation had managed to underpin multiple and different agreements between the head office and the depot sites. The arrangements that are in place could be described as multi-tiered, as there are four regional forums that operate alongside the main head office forum and the depot in Bridgwater also has a separate union-based arrangement. In addition, as discussed in chapter 6, employee voice arrangements appear to be well-structured and fairly

⁶⁰ Department of Trade and Industry (1998a), *Employees’ Information and Consultation Rights on Transfers of Undertakings and Collective Redundancies*, Public Consultation Document URN 97/988.

complex within the depot sites, as two separate JCCs operate across the sites and representatives from two unions (USDAW and TGWU) do not share a common bargaining unit and as a consequence three trade union recognition agreements apply for different sections of workforce.

By contrast, the recent establishment and development of employee voice arrangements at the head office of case-study two and also the two separate consultation forums in case-study four, provide good examples where the ICE Regulations have become a driver for a change in non-unionised workplaces as employee representation arrangements had not existed beforehand. However, in the aforementioned cases the main issues included on the agendas of the meetings were collective redundancies and transfer of undertakings, especially during the early operation of these forums, rather than general employment issues as stipulated through the provisions of the ICE Regulations. Moreover, as with the findings of other researchers, such as: Hall and Terry (2004), Hall et al. (2007, 2008 and 2009) and Deakin and Koukiadaki (2007), in all the relevant cases it was the management that took the initiative in relation to the: introduction, establishment or modification of the information and consultation arrangements in response to the statutory requirements. As a consequence, it is still questionable whether the operation of the recently established councils in the aforementioned case-study organisations can actually promote the interests of employees by giving greater impetus to the establishment of a dialogue on: business, organisational and employment issues. In other words, it is not evident that the ICE Regulations have actually further promoted the concept of industrial democracy in these workplaces. In concurrence with the empirical findings of other researchers, it is argued that *“there is [still] a significant democratic deficit”* at several workplaces in the UK (Richardson et al., 2010: p. 30). Nevertheless, the legislation has at least provided the opportunity for the formation of a standard and basic non-union representation structure that did not previously exist in any form.

The case-studies included in the research vary, in terms of: size, ownership, sector, the presence of union or non-union representation etc, and as such provide a representative cross-sample for evaluating, quite comprehensively, the various ways in which companies are responding to the implementation of the ICE Regulations.

Moreover, the examples that have been discussed in the case-study analysis cover both unionised and non-unionised workplaces, which can allow for the elicitation of clear understanding regarding the differences in the information and consultation arrangements between these two types of workplaces. With respect to this, it has been revealed that orientations towards the provisions of the ICE Regulations are clearly different when comparing unionised and non-unionised workplaces.

With regard to unionised workplaces, only on one site have the ICE Regulations led to the consideration as to whether changes to existing direct and indirect arrangements needed to be made. This situation occurred at the Felixstowe site in case-study one, where a review of the current arrangements took place in order to assess whether there was compliance with the requirements of the legislation. As previously noted, the original stimulus for setting up the Constitution Agreement, from which the consultation forum initially emerged, was a collective redundancy situation and this body of representation runs alongside the existing regular meetings with the union representatives of AMICUS (or Unite) and the TGWU. When this Constitution Agreement was reviewed in March 2005 no significant changes were eventually deemed necessary. That is, the ICE Regulations did not stimulate any remarkable changes to what was already in place and the unionised arrangements continued as before. By contrast, at the Manchester site, there is only a trade union recognition agreement and no sort of any Constitution Agreement for consultation arrangements with the non-unionised employees. Therefore, the case-study evidence indicates that one of the most significant factors that can shape the response of companies in relation to the implementation of the ICE Directive in Great Britain is the pre-existence or not of a trade union recognition agreement.

The fact that the ICE Regulations emerged as mattering most in non-unionised workplaces, as they provide a good opportunity for a change, is also evident in the results of the postal survey that was conducted in collaboration with ACAS, which mainly served as a tool for finding potential case-studies for the main empirical research. More specifically, as previously pointed out in chapter 4, JCCs existed and were regularly used prior to the implementation of the ICE Regulations, in unionised workplaces (according to the findings of the survey, 32 out of the 50 companies that are regularly using JCCs, are predominantly unionised – more details are provided in

table 9.2). In addition, most of the companies that decided to take no action are unionised, while those that plan to set up a negotiating body are mainly non-unionised. It is noteworthy that sixteen companies had put (or probably intended to put) on the agendas of union forums the issue of the ICE Regulations, which indicates that unionised employees tend to be more active in taking action on such matters (further details are provided in table 9.3).

Table 9.2: The Use of Joint Consultative Committees in the Unionised and Non-Unionised Sectors.

		Recognition of Trade Unions		Total
		No	Yes	
Joint Consultative Committees	Not at all	7	3	10
	Infrequently	4	3	7
	Sometimes	4	3	7
	Often	10	18	28
	A great deal	8	14	22
Total		33	41	74

Table 9.3: Organisational Responses to the ICE Regulations.

		Recognition of Trade Unions		Total
		No	Yes	
Organisational Responses to ICE Regulations	Design a pre-existing agreement	15	8	23
	Discuss with a recognised trade union	-	16	16
	Ballot the workforce	2	1	3
	Set up a negotiating body	7	1	8
	Decide to take no action	5	13	18
	Other	4	2	6
Total		33	41	74

The evidence from the four case-studies, in conjunction with the findings of the survey and the issues discussed in the academic literature, subsequently lead to the identification of the following questions that need to be addressed in the light of the implementation of the ICE Directive in the UK:

- What are the strategies that have been adopted by management, the trade unions and individual employees?

- What opportunities have the ICE Regulations provided for union and employee representatives to challenge management prerogative and dominance in decision-making?
- Do the ICE Regulations offer opportunities for true-consultation or just pseudo-consultation?
- Is legislatively-prompted voluntarism an accurate description of how the implications of the ICE Regulations will be viewed in the near future?
- Can the evolutionary impact of the ICE Regulations be considered as a) being an opportunity for strengthening industrial democracy and employee voice arrangements in the workplace? And/or b) an opportunity to harmonise British industrial relations with EU employment policy?

9.2 Changes and Modifications due to the ICE Regulations: Strategies Adopted by Management, the Trade Unions, and Individual Employees.

9.2.1 Employers and Management

This case-study research reveals that through the establishment of new or pre-emptory consultation arrangements the main intention of management has been to exclude discussion on distributive issues, such as: pay, terms and conditions etc on the agendas of consultation meetings. For example, in case-study one, consultation and negotiation mechanisms have been restricted to the unionised sections of employees under the trade union recognition agreements. As a result, at the Felixstowe site when a ‘hybrid’ representation structure was developed, the agenda of the council was controlled by management in such a way so as to ensure that the negotiation arrangements are separate from the consultative council. In this regard, it is important to emphasise the specific reference in the Constitution Agreement of the consultative council (CCC) that “...*all collective bargaining issues relevant to the union recognition agreement may be brought up in the separate [union-based] forum as defined in that agreement. The ‘CCC’ is not a negotiation forum...*” (Constitution Agreement Document, April 2005: p. 4). In other words, this confirms the previous findings of other researchers (such as: Wilkinson et al., 2007; Beaumont and Hunter, 2007; Hall et al., 2007) that management often tries to ensure that any sort of collective bargaining process, such as negotiations on wages, is not included in the

agreed constitution in relation to information and consultation arrangements. Thus it is evident that the existence or not of a collective trade union agreement shapes significantly the strategies adopted by the management in this particular case.

Using the model of “*Voice Systems and Management Style*”, as developed by Boxall and Purcell (2003: p. 180), the operation of the CCC forum and the review of the Constitution Agreement at the Felixstowe site are based on the principles of high-commitment/involvement management and the relationship with the trade union is co-operative (i.e. box 6 of the model, as illustrated in figure 2.4). Moreover, there is a dual channel of representation through the CCC meetings and a trade union recognition agreement. Furthermore, using the aforementioned model it can be argued that in this case-study organisation the management strategy has basically relied on the principles of “*partnership with organised labour*”, “*extensive voice systems*” and the potential development of “*high trust*” (ibid). This is similar to the features found at the depot sites of case-study two, where management has been following a co-operative and harmonious relationship with the union representatives, through the institutionalisation of three different trade union recognition agreements.

At the unionised sites in case-studies one and two, where trade union recognition agreements exist, the impact of the ICE Regulations has been very slight. By contrast, the relatively recent establishment of a new consultation forum at the head office in case-study two illustrates that the implementation of the ICE Regulations is having a salient effect on non-unionised workplaces. This is further confirmed in case-study four of the research project, where at the time of fieldwork there had been the relatively recent establishment of a consultation forum (in September 2006), in response to the implementation of the ICE Directive in the UK. In similar vein, at the head office of case-study two, it was the HR team that took the initiative to set up the Constitution Agreement document. More specifically, this action was taken by the HR management team in order to dissuade the employees from establishing a union-based arrangement. In fact, in this regard, when a separate consultative forum was set up in one of the warehouses in Bolton (in August 2007), the HR manager explicitly stated that one of the company’s objectives was to reject any request for trade union recognition agreement.

In general, it would appear that when there is a lack of expertise on the part of the individual employees, coupled with superior knowledge of managers about information and consultation forums, as in case-study four, then the latter are more likely to be pro-active in taking the initiatives and establishing forums of their own design. By contrast, the employees and their representatives in such situations behave in a reactive fashion to any initiative taken by management. Moreover, under these conditions the main management strategy is aimed at legally underpinning the information and consultation agreements through a formal voluntary agreement, thereby limiting the possibilities for the employees to challenge the arrangements as they will need to muster 40 per cent support from the workforce in order to trigger any further negotiations.

The “*conceptual map of factors influencing non-union employee voice mechanisms*”, as defined by Dundon and Gollan (2007: p. 1185), may provide an explanation for the contextual parameters that can lead management to take the initiative and set up the consultation forums. A good example of this can be seen in relation to the setting up of a separate forum at the Bolton warehouse in case-study four, where “*ideological hostility*” (ibid: p. 1191) or employer aversion to the establishment of union-based arrangements can be clearly observed. More specifically, the HR management used the current “*regulatory environment*” to take pre-emptive action and establish employee voice arrangements based on the organisational objectives (ibid: p. 1186). In sum, this can be viewed as being an attempt by management to lessen the possibility of any external involvement by organised labour and securely establish the formal communication and consultation mechanisms within the organisation.

In line with the empirical findings of Hall et al. (2007), it is argued that in some cases management uses information and consultation arrangements “*as a means of staving off union demands for recognition*” (p. 72) or with the goal of convincing the employees that there is no need to join a trade union, since the established consultation forum is a good and “*viable*” option. This coincides with the notion of “*union avoidance*”, as described by many academics (for example, Bratton, 2007a: pp. 409-410), which constitutes an attempt by employers to establish a non-union employee representation structure, rather than bestowing a trade union recognition agreement. Moreover, such employee voice arrangements can be used as a device for

promoting communication and consultation mechanisms, rather than granting negotiation rights. This management strategy has also been termed as a “*covert*” tactic that promotes non-union representation by which the employer is refusing to concede any union recognition agreement (Watling and Snook, 2003: p. 268) and this has especially been observed in the workplaces with relatively low union membership. In fact, employers are usually adopting such strategies “*as a means of weakening collective bargaining and the union role more broadly*” (Brewster et al, 2007b: p. 1249).

Likewise, the empirical findings from other projects, which are also based on case-study research, indicate that management has been using the statutory provisions of the legislation in order to dissuade the development of union-based arrangements. More specifically, management can use the provisions of the ICE Directive as “*an ideal opportunity to introduce non-union consultative structures*” (Johnstone et al., 2004: p. 373) with the view to persuade employees that they have “*a viable alternative*” (Hall et al., 2007: p. 72) instead of choosing to join a trade union. This position was also recognised in the past by Ramsey (1977), who pointed out that non-union consultation arrangements can be established by employers as a strategy to deter any attempt for trade union recognition agreement, and more recently by Butler (2009a), who has suggested that such actions by management exemplify the “*desire to pre-empt union organisation*” (p. 209). Similarly, this strategy has also been described as entailing the desire to promote and establish “*union suppression [or] substitution*” (Dundon and Wilkinson, 2007: p. 1189).

9.2.2 Individual Employees and Trade Unions

Avoidance of the establishment of modified or new consultation arrangements is a strategy that has been adopted by many of the unionised employees, especially in the manufacturing sector (Edwards et al., 2007). For instance, at the Manchester site in case-study one it is evident that there is a strong reliance on union-based representation bodies. Moreover, at this site there is no compliance with the statutory requirements and thus there is no form of representation for the employees that are not members of the GMB union. In fact, the lack of co-ordination amongst the non-union employees has led to their consequent failure to take the initiative and request

negotiations for the setting up of a constitution agreement, as defined in the provisions of the ICE Regulations.

Moreover, the defensive attitude of the representatives from the GMB union at the Manchester site is an example of avoidance or ambivalence towards the establishment of more extensive forms of employee voice. In this regard, similar to the findings of Doherty (2008), it would appear that the avoidance strategy was adopted because the consultation forum was perceived as being a threat to collective bargaining, in that management may try to put items on the agenda of the forum that were previously considered as issues included in collective bargaining, thus superseding the negotiation process. In such circumstances, union representatives primarily try to defend the already acquired collective consultation and negotiation rights, rather than attempting to use the ICE Regulations for their own benefit. In parallel with the aforementioned rationale, Gospel and Willman (2005: p. 142) suggest that:

“...on the part of unions, they fear that employers may use the Directive to exclude or eject them, and that they have neither the leverage nor the capability to mobilise workers to achieve and operate new information and consultation arrangements”.

The reactions of the GMB union representatives provide a good example of an avoidance or ambivalence strategy being adopted to thwart any attempt by management to establish a hybrid consultation forum. Moreover, the representatives expressed their reluctance to sit alongside non-unionised representatives who lacked legitimate collective rights. The evidence from other research projects indicates that union representatives may be against non-union or hybrid-based arrangements, because they perceive that this will weaken their *“dealings with management”* (Beaumont and Hunter, 2007: p. 1235) and non-union representation can be also considered as *“ineffective in providing a true voice for employees due to the lack of independence”* (Pyman et al., 2006; cited in Gollan and Wilkinson, 2007a: p. 1139). The evidence from case-study one would appear to support the posited view that the development of hybrid forums is actually seen as a potential threat to the collective power of the union representatives, because negotiation rights can be dropped by management in favour of broader and less robust consultation and communication mechanisms. In line with the aforementioned arguments, Hall et al. (2007: p. 59)

argue that the avoidance or defensive strategy of unions stems from their apprehension that such arrangements can possibly “*erode their exclusive rights to represent staff in negotiations and thus the legitimacy of their on-site role*”.

In general, another factor that can account for the union’s defensive approach towards the ICE Regulations relates to the demarcation line between union-based negotiation and joint consultation bodies, where it is a given “*fact that collective bargaining deals with substantive or procedural matters, and consultation addresses other matters of common interest...*” (Bratton, 2007b: p. 460). This highlights one of the main weaknesses of the ICE Regulations, in that in their provisions there is no explicit designation “*between representative consultation and negotiation*” (Coupar and Stevens, 2005: p. 51). In particular, the unwillingness of union representatives at the Manchester site to review their agreement in accordance with the legislative provisions is an indication of their lack of trust towards the management and their fear of losing the power of their collective role, if broad consultation arrangements were allowed to evolve. At this site, this non-compliant strategy indicates that the union representatives have a strict adherence to the upholding of their consultation and negotiation rights. Moreover, the ICE Regulations do not provide any additional rights to union representatives and actually their statutory provisions would probably lead to inferior agreements when compared to the union-based arrangements. In sum, the legislation does not assign “*an explicit role*” to the trade unions (Lorber, 2006: p. 257) and in fact, as Doherty (2008: p. 618) has emphasised, it does allow for the development of “*non-collectivist*” employee representation, which can give some justification for the negative or ambivalent trade union stance.

At the Manchester site, the clearly evident poor relations of the past owing to the collective redundancies had led to a continuing highly adversarial climate. In particular, low levels of trust could be identified and employee voice arrangements at the time of the research were restricted, because there was no representation structure for the non-unionised sections of the workforce (i.e. box 3 of the model, as illustrated in figure 2.4). According to the HR manager, it appears that more recently the climate has been improving, with there being more cooperation between the trade union representatives and HR management that may potentially lead to more extensive voice systems of a similar nature to those at the Felixstowe site. Even though this has not

yet taken place, it could be achieved through the development of a Constitution Agreement that covers both the non-unionised and unionised employees in the form of a 'hybrid' information and consultation forum.

The flexibility of the legal framework and provision of minimum rights, as defined by the ICE Regulations, do not actually provide great scope for action by the employees, especially in relation to the establishment of collective consultation. Furthermore, the analysis of the survey findings, in chapter 4, indicates that for the vast majority of the companies there is no likelihood that employees would vote to endorse a request for triggering any negotiation procedures for new arrangements, in accordance with the statutory provisions. In fact, only in five organisations it was underlined that it was quite likely that employees would make such a request (further details are provided in table 9.4). In an interview with the HR manager of one of these companies⁶¹, he pointed out that the issue had been brought up for discussion by the union representatives in the context of reviewing the Constitution Agreement of the JCC and evaluating the operation of a separate negotiation forum that had been established with the union representatives of Amicus. The issue was discussed for approximately six months and afterwards there was a mutual agreement and consensus that there would be no changes, as it was generally acknowledged by both parties that the company already complied with the legislation. Eventually, the union representatives came to the conclusion that the ICE Regulations, in terms of communication, consultation and negotiation arrangements, offered no improvements to the union-based arrangements.

⁶¹ This organisation is not included in the selected sample of the case-study research, as it has already been explained in chapter 3, because there was limited access for conducting the fieldwork. In this regard, no permission was given for documentary collection and thus no further interviews were finally conducted.

Table 9.4: Likelihood of Endorsing a Request for New Information and Consultation Arrangements.

		Recognition of Trade Unions		Total
		No	Yes	
Potential Requirement for new I&C Arrangements	Not at all likely	10	14	24
	Not very likely	20	19	39
	Unsure	0	4	4
	Quite likely	1	4	5
	Not answered	2	0	2
Total		33	41	74

The minimal threshold that is required so that employees are able to make a valid request for negotiations can create an insurmountable barrier (Hall 2006), especially for those sections of the workforce that are not union-members and thus usually lack the required expertise. In particular, some academics have been very critical of this threshold, pointing out also the fact that the ICE Regulations are not binding for the employers.

“By not obligating employers to, at least, begin negotiations, the legislation does little to more strongly institutionalise voice and involvement arrangements, does nothing to promote employee awareness of their rights, makes accessing rights largely dependent on managerial attitudes and gives little or no incentive to management to take a proactive approach” (Doherty, 2008: p. 617).

From the trade union point of view, in a number of formal guides published by them, including those of Unite and USDAW, there is explicit advice to union representatives to be careful when management seeks to establish, unilaterally, a formal arrangement, because of the strong possibility of inferior agreements being developed that are very difficult for the employees to challenge or renegotiate later on, owing to the aforementioned higher threshold of 40 per cent. In other words, the threshold for endorsing the request for negotiations dissuades and seriously precludes the possibility of employees being able to challenge pre-established arrangements. In sum, trade unions have published guidelines and urged their members to react against any such pre-emptory attempts by employers to use the provisions of the ICE

Regulations in order to undermine the interests and collective rights of unionised employees.

Furthermore, the case-study evidence, with regard to the conducted research, suggests that in workplaces where trade union recognition agreements already pre-exist and especially where union membership is high, the unionised employees are more able to protect themselves against the establishment of comparatively inferior information and consultation arrangements. The empirical findings in other case-study research projects indicate that in workplaces where trade unions have minority membership, “*ingenious ways*” can be implemented within the organisation so that both unionised and non-unionised employees can be represented in “*parallel meetings*” (Hall et al., 2007: p. 74), thereby achieving complementary voice arrangements. In such cases, it will be interesting to see whether unionised representatives on recently established consultative councils will be able to avail themselves of the opportunity to request a recognition agreement as the operation of these councils further evolve. In this regard, the Bolton warehouse in case-study four provides an example where unionised employees have been able to use the ICE Regulations and formed a Constitution Agreement that gives them a place on the consultation forum. Hence, although there is no trade union recognition agreement, at least the employees can have a legitimate voice. That is, in such scenarios the statutory provisions of the legislation have provided the opportunity to the unionised employees to have a substantial involvement in the establishment and development of information and consultation arrangements, especially “*in workplaces where they have no current presence*” (Gollan and Wilkinson, 2007b: p. 1153).

Consequently, the statutory provisions of EU directives on employee participation, such as the ICE Directive, can and do allow trade unions to “*have legal supports that they can potentially turn to their advantage*” (Gospel and Willman, 2005: p. 142). In other words, in some weakly unionised workplaces, especially those with minority membership and no formal trade union recognition agreement, the ICE Regulations can help the unionised employees to get a foothold, if they secure a place for representation on consultation forums. Some unions, including Unite and USDAW, have advised their members in organisations where they have weak representation to use this as a strategy to ensure that collective consultation is enforced and viewing

this as a potential avenue for the eventual acquiring of a collective agreement. This union perspective concurs with the claim made by some employers and anti-unionists who have expressed the view that the ICE Regulations can become a “*Trojan horse*” (Gollan and Wilkinson, 2007b: p. 1154), because the introduction of consultative councils may eventually lead to the establishment of a trade union recognition agreement.

From the empirical findings of the conducted research, it has emerged that in most of cases trade union representatives and individual employees have not been developing a pro-active approach in relation to the legislation. It is evident that in unionised workplaces the already established consultation and negotiation forums provide better employee rights than the statutory provisions of the ICE Regulations. As a result, employees in these settings tend to be content to continue to use the union-based arrangements and are indifferent or even hostile to the introduction of new consultation mechanisms. Consistent with the findings of other researchers (such as: Hall et al., 2007, 2008 and 2009), the trade unions representatives turned out to be largely “*silent, only reacting when the companies [or management] took the initiative*” (cited in Hall et al., 2007: p. 17) to establish more extensive and/or hybrid forms of consultation mechanisms. With regard to the individual employees, in non-unionised workplaces there is an obvious lack of expertise and therefore, it is not surprising that they have not been proactive in triggering negotiation procedures. Even in the workplaces, where consultation councils are not existent, it appears that the threshold of 10 per cent may be a considerable barrier when individual employees wish to initiate the negotiation process.

Recently, many trade unions, e.g. Unite and USDAW, have encouraged their union officials to promote the instigation of greater involvement by their members in the development of information and consultation arrangements in their workplaces. Nonetheless, there is no significant evidence that union representatives have been actively involved in the negotiation of agreements as assigned by the standard provisions, which from the research outcomes can be primarily attributed to their lack

of knowledge concerning the ICE Regulations. From a wider perspective, using the findings of CHA⁶² (2005: pp. 4-5), Gollan and Wilkinson (2007a: p. 1138) argue that:

“...more than eight in ten employees in the UK have not heard of the ICE Regulations. Only 12 per cent of employees have been informed of these requirements from their employer, and almost all (94 per cent) have not been told about these requirements from their trade union. Only 13 per cent of employees were aware that the requirements gave them a right to ask their employer about the future of their organisation”.

In general, similar empirical findings have been highlighted by other researchers, where in particular it has been argued that management predominantly makes “*all the running*”, whilst the involvement of employees, in relation to the procedures for establishing or modifying consultation arrangements, appears to be rather minimal (Cressey, 2009: p. 155). Finally, it is apparent that employees lack conviction with regard to their own rights and thus even if they are aware of the legislative provisions they may be “*unwilling or unable to force their employer’s hand*” (Doherty, 2008: p. 617).

9.3 ICE Regulations: An Opportunity for Trade Unions and Individual Employees?

9.3.1 Challenging Management Prerogative and Influencing Decision-Making

According to the empirical findings of the conducted research, the necessity to comply with the minimal requirements of the legislation has led management teams, in nearly all cases, to adopt a rather pre-emptive approach, which subsequently has resulted in non-pluralist or unitarist agreements that have the primary purpose of attaining organisational goals, rather than protecting the interests of employees.

More specifically, at the head office of case-study two, management adopted a pre-emptive strategy in order to comply with the requirements of the ICE Regulations. Furthermore, in this case although the company was forced to act (i.e. through the establishment of a consultative forum in 2005) due to the implementation of the ICE

⁶² CHA: ‘The Workplace Communications Consultancy’ (<http://www.chapr.co.uk/>).

Directive, the main driver was actually the need to execute collective redundancies in accordance with the legislative requirements. With regard to the introduction of consultation arrangements, the initiative was taken by the HR department and this was further stimulated by the fact that there had been a recent change of ownership. Consequently, the company now safely complies with the minimal provisions of the ICE Regulations (in accordance with its organisational objectives and needs), a situation that has essentially emerged through the unilateral establishment of a formal Constitution Agreement by management. As a result, there is restricted input available to the employee representatives, which has limited their influence on the decision-making process and thus provided them with no effective means to challenge the management prerogative. By contrast, at the highly-unionised depot sites, where JCCs and negotiation forums are regularly held, the company fully complies with the statutory provisions and thus employee voice arrangements are considered relatively more influential when compared to the consultative forum at the head office.

In unionised workplaces, the case-study evidence indicates that consultation and negotiation procedures are more coherent and effective, because the union representatives have the necessary experience and expertise to be more influential in relation to management prerogative. In other words, the information and consultation arrangements and representation structures tend to constitute stronger forms of employee voice in unionised rather than in non-unionised workplaces, as has also been suggested by other researchers (Cully et al., 1999; Gospel and Willman, 2005; Kersley et al., 2006).

In fact, in non-unionised workplaces, what has been termed as a consultation arrangement often turns out to be largely a communication process, which involves limited opportunities for influencing decision-making. This perspective was confirmed by the interviewees from the head office of case-study two and the retail outlet of the Yeovil store in case-study three, who emphasised that their opinions are heard but the actual decision-making is made by the management and thus the influence of employee representatives is seriously curtailed. In sum, in all non-unionised sites included in the case-studies of the research there is much evidence that employee representatives can hardly influence the decision-making process, with the

result being that the employee representatives are able to make very few, if any, challenges towards management prerogative through the consultation forums.

The CCC meetings in case-study one and the operation of the JCCs at the depot sites in case-study two can be described as typical hybrid forms of employee representation. More specifically, they constitute examples of consultation forums/councils that have co-existed for many years alongside union-based negotiation forums. These arrangements would appear to have provided the employee representatives with more influence over management decision-making, when compared to the forums/councils that were established in the other case-studies in response to the ICE Regulations. The evidence from the case-study research supports the view that once a trade union recognition agreement is established, management tends to accept the notion of partnership with organised labour and any consultation mechanisms are perceived by both sides as containing more enforceable arrangements, thereby being more effective. By contrast, in non-unionised workplaces, employee voice arrangements tend to be mostly direct and forms of representation appear to be weaker, largely because they have been initiated by management exercising its role as the main authority.

Turning to the terminology of Gollan (2000: p. 415), with regard to the “*strategies and objectives of non-union voice arrangements*” (cited in Dundon and Gollan, 2007: p. 1190), the establishment of consultation forums in case-study four and at the head office of case-study two can be described as “*conflictual (win and lose)*” situations, because although through the single channels of representation employee interests are supposed to be addressed, these arrangements mainly serve organisational objectives that include collective redundancies and TUPE scenarios and in reality there is “*limited workplace decision-making*” afforded by management. By contrast, the operation of the Store Council in case-study three can be claimed to be a “*mutual (win-win)*” situation, as it is based on mutual “*co-operation*”, with the primary focus being on “*productivity improvement*”. Figure 2.4 illustrates this model as adapted by Gollan (2000: p. 415; cited in Dundon and Gollan, 2007: 1190).

At the time of research, the recently established consultation forums/councils at the head offices in case-studies two and four were operating according to the guidelines

of their constitution agreements, with the HR management exhibiting strong enthusiasm in relation to the promotion of information and consultation mechanisms. In these cases, management decision-making had to take into account the views of their employees in relation to the redundancies and transfer of undertakings, but discussions on such matters were mainly restricted to the process that would be involved, rather than whether these events could be avoided. For instance, all the interviewees in case-study two confirmed that the directors and managers listened to their opinions and followed the formal procedures in relation to consulting with them about the redundancies, as laid down by the law. Nonetheless, it was pointed out that the final decision-making rested with management team and thus the scope of influence for the employees was severely limited and consequently management prerogative could not be challenged.

Through the council meetings held at the head offices in case-studies two and four, management communicates all the necessary information and business decisions are also announced to the employee representatives. Thus it is evident that this serves as a management strategy to promote the notion of “*participative decision making*” (Riordan et al., 2005: p. 473), which has the purpose of creating the perception amongst the employees that they have “*control [or] say*” in the decision-making process (ibid). Moreover, as some of the case-study outcomes have revealed, the flexible standard provisions of the legislation have provided management representatives with a lot of leeway regarding the way that new consultation arrangements can be developed and often they have taken great care to ensure that the interests of the organisation are protected, rather than granting decision-making opportunities to their employees. To this end, it emerges that the HR managers, most of the directors and other managers have made considerable effort to obtain effective levels of awareness about the ICE Regulations and their implications.

The widespread absence of an active involvement by the employee representatives, which was evident across the cases during the development and enforcement of the constitution agreements, has resulted in limited scope of influence for the employees with their interests not being strongly promoted. Given the fact that the initiatives are mainly driven by management, Doherty (2008) argues that consultation arrangements can hardly “*address employee concerns about real involvement in decision making*”

and employees will potentially be unable to “*prevent a management-dominated agenda without external [and] independent assistance*” (p. 618). In line with the aforementioned findings, Gollan and Wilkinson (2007a) support Marsden’s (2007) argument.

“The element of employee voice may be very weak when new work goals and priorities are imposed unilaterally by management, and they may be strong when full consideration is given to the changing needs of both parties” (Marsden, 2007: p. 1263; cited in Gollan and Wilkinson, 2007a: p. 1141).

Despite these shortcomings, in general, the case-study interviews with management and employee representatives have generated strong evidence that information-sharing and consultation are considered to be beneficial for organisations, because they provide the opportunity to employees to have a say, whilst simultaneously giving the impression to all concerned that business decisions are being made in a transparent way, which can result in beneficial outcomes, such as mutual trust, commitment and increased productivity. In a similar vein, other researchers argue that information and consultation arrangements should be regarded “*as the ‘right things to do’ as part of a wider approach to modern management*” (Hall et al., 2007: p. 71). In general, the findings in the case-study research support this perspective, in that the outcomes as a result of the implementation of the ICE Regulations are considered by both management and workers to have led to functional participation mechanisms, which in some cases did not exist previously. However, some academics suggest that the available evidence shows that activities in response to this legislation are predominantly managerial-based and thus although the established arrangements are “*functional*”, they are still “*voluntary and unitarist in outlook*” (Cressey, 2009: p. 158).

In sum, in accordance with the findings of other researchers, the evidence from the case-studies indicates that the trade unions and individual employees, as yet, have been only minimally involved in decision-making through the information and consultation arrangements and in addition, their inputs into the establishment and subsequent developments of these arrangements have been rather limited. This state of affairs can change if the trade unions provide further advice and guidelines to their

members and simultaneously, external independent bodies and agencies, such as: ACAS, CAC and EAT contribute significantly towards the wider enforcement of the ICE Regulations, thereby enhancing the potential implications of the legislation. If this happens, it may provide a further impetus for all parties (i.e. management, trade unions and individual employees) to collaborate equally in the establishment of new constitution agreements at their workplaces. In other words, this can eventually lead to more coherent and effective voice arrangements, with employees having a greater say in business decisions through consultation forums.

In general, this legislation does not provide opportunities for challenging management prerogative, as in particular there is no binding mechanism for the establishment of negotiation and co-determination rights. Moreover, it is doubtful whether the flexibility, which is provided through the statutory provisions, can challenge the widely encountered “*unitarism*” (Provis, 1996: p. 473), so as to give more favour to employee interests or to provide an impetus for the development of pluralist forms of participation. In reality, as confirmed in a number of the case-studies, the scope of influence for employees is still narrow since “...*management reserves the right to make the final decisions and hence ignore workers’ views...*” (Wood, 2008: p. 165). This perspective is similar to that of Truter (2003), who argues that the provisions in the ICE Regulations are insufficient for bringing the British system of employment relations closer to the “*German-style social partnership model*” (p. 28). Referring to the implementation of the EU Directive on EWCs, Bercusson (1996) expresses his general scepticism about the likely impact of such initiatives, being strongly critical of the fact that such directives have been used opportunistically by managers to ensure that companies comply with the absolute minimum requirements on employee participation mechanisms and thus stay on the right side of the law. Under these circumstances, the most likely impact of such directives is the development of organisation-specific arrangements that are based on temporary needs and objectives of organisations, in order to deal effectively with momentum issues of employee participation. In particular:

“...directives apparently covering only narrowly defined situations involving labour in the enterprise (collective dismissals, transfers of undertakings, transnational enterprises) raise general and momentous issues of workers’ representation, the role of

collective agreements, [and] adequacy of sanctions...” (Bercusson, 1996: p. 221; cited in Bercusson, 2002: p. 212).

9.3.2 True-Consultation or Pseudo-Consultation?

In case-study three, there is a pre-existing agreement that covers all the employees in all the retail stores and thus a minimal safe compliance with the new statutory requirements has been achieved. The result has been that the pre-established Store Council can be described as a mechanism of employee voice that formally allows for a wide range of communication, but offers no opportunities for employee representatives to challenge management prerogative through true-consultation arrangements. Employee representation in this case is quite robust, with the evidence showing that the HR team is pro-active in the implementation of any legislation on employee rights, so as to sufficiently adhere to the statutory requirements, but without additional initiatives taken to enhance further the employee participation. Moreover, the final decision-making strictly remains under the aegis of the head office and during the Store Council meetings it is mainly management that puts the items on the agenda with the store director making most of the presentations. Employees have the perception that they have their own input through the company’s council meetings, but they recognise that their influence is limited and also acknowledge that management mainly uses the forum to inform them about business strategies and policy decisions when the decisions have already been made. Under such circumstances, pseudo-consultation is more apparent than true-consultation.

The limited influence of employee representatives in a number of the observed cases can be attributed to the narrow remit of the ICE Directive, with its provisions being markedly inferior when compared with those of the European Company Statute Directive, in which board-level representation for employees is considered essential. Moreover, the ICE Regulations do not allow for any enforcement of negotiation rights nor do they contain any explicit reference for employees to have any substantial influence in management decision-making.

In general, at all of the non-unionised case-study sites the consultation councils mainly constitute information and communication arrangements established by management initiatives. This is particularly evident at the head office of case-study

two and in case-study four, where the consultation arrangements had only been recently set up at the time of the research. In these cases, the employee representatives lacked the expertise and thus they were not actively involved in the development of the formal agreements. In addition, the Constitution Agreement in case-study four lacks customisation from the main legislative template, thus closely resembling the minimal-default provisions of the ICE Regulations, thereby focusing on the communication process, particularly in relation to the transparent dissemination of business decisions, rather than on attaining true-consultation.

More specifically, there is a clear reference in the Constitution Agreement, in case-study four, that “...*the consultation process will not affect management’s prerogative to take appropriate decisions at the time required by the business and does not therefore need to take place before the decision is taken...*” (Constitution Agreement, September 2006: p. 3) and the consultation forum “*cannot cover pay negotiations and areas that management should communicate or manage*” (Minutes of the Bridge Forum, November 2006: p. 3). Nonetheless, there is explicit reference to the fact that the company will seek to ensure that consultation takes place with a view to reaching an agreement through the exchange of views and the establishment of dialogue between the employee representatives and employer, and consequently, it can be also described as an agreement that securely complies with the standard provisions. In addition, regular training courses have been organised for the representatives in order to make their involvement more influential and thus enhance the effectiveness of forum meetings.

Another factor already highlighted is concerned with the existence or non-existence of a trade union recognition agreement, which potentially affects the development of consultation arrangements and level of influence over management decision-making. For instance, the Constitution Agreement of the CCC, which operates at Felixstowe site in case-study one, would appear to provide a more pluralist and broader definition of authentic and real consultation, because there is emphasis on promoting, mutually, the interests of all parties concerned under the written obligation that the employees’ views should be heard. More specifically, consultation is assigned as the process:

“...by which management and employees or their representatives jointly examine and discuss issues of mutual interest. It involves seeking acceptable solutions to issues through genuine exchange of views and information. It does not remove the right of managers to manage but imposes an obligation that the views of employees will be sought and considered before decisions are made...” (Constitution Agreement Document, April 2005: p. 3).

In reality, the operation of the recently-established consultation forums in case-studies two and four can primarily be attributed to external/internal business pressures, rather than to managerial attitudes or employee demands and the former are commonly described by other researchers as “*external events*” (Beaumont and Hunter, 2007: p. 1240). Moreover, during the conducting of the research, these forums, on the whole, accommodated and facilitated the implementation of harsh decision-making, with the desired aim being that employees would accept changes with less resistance, because they would be more likely to consider that the procedures were being followed in accordance with the statutory requirements. Furthermore, the information-disclosure and communication mechanisms are well structured and enforced in all the workplaces in order to comply with the ICE Regulations. However, the available evidence indicates that the communication of decisions is the primary function for the newly-established consultation councils and thus, authentic or true consultation is not taking place. Nevertheless, under these circumstances and given the low levels of knowledge of the representatives and individual employees, it may well be that these people believe that the business decisions are made in a transparent and fair way through the consultation forum, in accordance with the ICE Regulations, even if true-consultation is not really sustained.

In sum, the evidence from the case-studies indicates that the ICE Regulations have brought about opportunities for change in some non-unionised workplaces. Nevertheless, the actual consultation mainly relates to issues about collective redundancies and transfers of undertakings in the recently established forums/councils, rather than providing a platform for the employees to engage in an open social dialogue with the employers about other key business issues, such as employment and restructuring matters, as originally envisaged when the legislation came into force. In essence, in these cases the agenda is primarily led by management,

with the arrangements being set up in a unitarist way by the HR department, thereby resulting in evident features of pseudo-consultation.

At the time of research, it emerged that the newly established councils were seen by nearly all the employees as a vehicle for communicating business decisions (and consultation to some extent), in order to securely comply with the statutory-legal requirements, rather than being an opportunity for engagement in an open dialogue with management that may potentially enhance their own voice. Moreover, through these forums employees are being predominantly informed of business-decisions instead of being effectively consulted. This can be primarily attributed to the unilateral setting up of Constitution Agreement documents by management, allowing for them to ensure that the information and consultation arrangements evolve “*in an opportunistic way*” (Gold, 1998: p. 130). Further, from this pessimistic perspective on the employees’ part, as other researchers have also posited (Gollan and Wilkinson, 2007a: p. 1138), it is argued that the ICE Regulations could be used by management as a tool for the establishment of “*weak employer-dominated partnerships*” that actually “*[marginalise] collective consultation*” and promote communication mechanisms rather than encourage true or authentic consultation. Similarly, drawing on relevant empirical study on the implications of the ICE Directive, it is pointed out that:

“...employee representatives frequently commented that the balance of activity on information and consultation bodies was weighted towards information rather than consultation, and often concerned decisions that had already been taken. This implies a tendency on the part of management to inform, in information and consultation bodies, about company developments rather than seeking to engage in consultation; there was little suggestion that employees were being consulted but that their ideas were not being listened to...” (Hall et al., 2007: p. 52).

As Dundon et al. (2006) argue, employers may also attempt to impose and enforce pseudo-participatory mechanisms of consultation and consequently, it is doubtful whether the ICE Regulations, alone, can provide the impetus for the establishment of more collective forms of representation in workplaces. Moreover, the combination of other negative factors, such as: pre-emptive management strategy, strident

union/employee demands, business pressures and low levels of trust can have a serious impact on the efficacy of collective employee voice (ibid: p. 493). Regarding the foremost of these negative factors, it has emerged from other researchers that the prominence of management prerogative has actually resulted in that “...*current regulations of voice mechanisms within the employment relations are consciously ambiguous and susceptible to manipulation...*” (Perrett, 2007: p. 618).

9.4 Legislatively Prompted Voluntarism: A Potential Conceptual Framework for Understanding the Implications of the ICE Regulations?

Hitherto, the research findings from the case-studies indicate that information and consultation arrangements are strongly reliant upon unilateral initiatives by management, taking the form of ad hoc actions and predominantly based on the temporary needs and objectives of organisations. As a result, it appears that the transposition of such EU directives and the subsequent establishment of legal frameworks are not sufficient to bring dramatic changes to the sphere of employee relations. However, the ICE Directive can be seen as an opportunity for the UK (and Ireland) to move closer to the principles of the European social model, in the context of employment policy. Nevertheless, this involves a big challenge, because the contextual features of voluntarism, de-centralisation and light regulation are deeply rooted within UK industrial relations (Hardy and Adnett, 2006; Perrett, 2007). In other words, these “*national idiosyncrasies*” are discernible obstacles to any potential and substantial change (Keller, 2002: p. 441).

Owing to the generalised nature of the wording of the legislation, there is much flexibility in developing the consultation process and therefore the imposition of effective employee voice arrangements is seriously problematic. That is, in this form the ICE Regulations are not sufficient to transform the context of British industrial relations, because they are not enforcing statutory rights for British employees that are already mandatory in other EU member states. With respect to this, co-determination rights are provided in many EU countries, such as: Germany, the Nordic countries, Austria and Benelux, where there is “...*an obligation on employers to reach agreement with employee representatives on a range of issues...*” (Broughton, 2005:

p. 211). However, it is posited that the ICE Regulations are unlikely to bring any major shifts in this direction, because “*legislatively prompted voluntarism may not be enough to provide a platform for a fundamental change in employment relations*” (Hall, 2005a; cited in Gollan and Wilkinson, 2007a: p. 1138). Moreover, other constraining factors may shape the “*choices of actors*” such as “*existing transnational, national and sectoral structures and traditions*” (Gilman and Marginson, 2002: p. 38). Likewise, it can be argued that the flexibility of the statutory provisions and lack of knowledge of the employees can allow for employers and management to set up unilateral consultation arrangements that predominantly serve organisational goals and their development is based on opportunistic needs. Under these circumstances, the ICE Regulations do not significantly alter the context of British industrial relations and on the contrary, they stimulate the continued “*British industrial relations exceptionalism*” when compared to other European countries, as originally portrayed by Bercusson (2002: p. 217) and also emphasised by Hall (2005a and 2005b).

On the other hand, these statutory provisions could: enable, ensure, and even impose, under certain conditions, the establishment of structured mechanisms that allow for the emergence of formal and consistent: information, communication and consultation arrangements. Moreover, regardless of who initiates the establishment of such arrangements, these developments could “*lead to a proliferation of employee representation structures for different purposes*” (Gollan and Wilkinson, 2007b: p. 1148) that appear to flourish, predominantly, in non-unionised workplaces. According to Cox et al. (2006: p. 253), this outcome would stimulate the “*centrality or institutional embeddedness*” of non-unionised consultation councils (cited in Butler 2009b: p. 178) in the workplaces, where previously employees had poor representation. More specifically, as shown in case-studies two and four, the ICE Regulations have provided the opportunity for the employee representatives in non-unionised organisations to become involved in communication and consultation procedures and to be allowed to participate in discussions regarding important business decisions. In a strongly unionised workplace, such as the Manchester site in case-study one, the management unilaterally attempted to introduce arrangements that would extend involvement to non-union employees. However, because of the defensive attitude of the union representatives they were unable to push through their

own initiative and consequently the non-unionised workers remained outside of any representation structure. By contrast at the Felixstowe site in the same case-study organisation, a hybrid system was established, because the union representatives did not object the establishment of a broader consultative council and in fact, union representatives were elected to this council.

Consistent with the arguments of Geary and Roche (2005: p. 192), some of the case-study outcomes revealed that management has been proactive in achieving “*pre-emptory agreements*”, thus resulting in organisation-specific arrangements, which mainly address pressing organisational needs and yet being in accordance with the statutory provisions. Under these circumstances, the information and consultation arrangements serve as temporary solutions to organisational challenges, rather than promoting the legitimate interests of employees in a pluralist way. This illustrates that the provisions of the ICE Regulations may encourage the development and spread of “*tailor-made*” or “*voluntary pre-emptive arrangements*” (similar to the experience in relation to EWCs, as quoted in Cressey, 1998: p. 69), which are based on “*enterprise-specific rules*” (Keller, 2002: p. 442) and “*employer-initiated events*” (Doherty, 2008: p. 611), rather than lead to the establishment of a standard model, as defined in the statutory provisions of legislation. With this understanding, the ICE Regulations may be engendering the frequent emergence of a conceptual framework that is described as “*legislatively-prompted voluntarism*” (Hall and Terry, 2004: p. 226; Hall, 2005b: p. 122), which mainly includes opportunistic forms of organisation-specific or event-driven consultation arrangements that heavily rely on “*employers’ goodwill*”, similar to the reported experiences arising from the implementation of other EU directives on employee participation (Sako, 1998: p. 12; cited in Cressey, 2009: p. 158).

With respect to this issue, Keller (2002: p. 442) has turned out to be visionary, in that he predicted this outcome (i.e. legislatively-prompted voluntarism) to be the likely impact of such EC/EU directives. In addition he has expressed serious reservations about their capacity to establish a European social model that includes the “*social dimension of the internal market*” (ibid) with “*fundamental social rights*”, as originally envisaged by Jacques Delors. More specifically, he has conceived as a potential implication that:

“...a variety of voluntaristic, tailor-made, enterprise-specific rules will be the result of the proceduralisation of [such EU] regulation – instead of generally binding, and, therefore, comparatively homogeneous and equalising legal prescriptions...strict new models for social partnership and ‘co-decision-making’ or ‘joint-regulation’ of strategically important company affairs are not provided...” (ibid).

Turning to consider the UK specifically and how the transposition of the ICE Directive into British employment legislation has affected the industrial relations landscape, strong consideration should be given to *“...the role that the voluntarist dimension of industrial relations continues to play in the mind-set of policy makers and in the calculations of social actors such as trade unions and employers...”* (Perrett, 2007: p. 620). In this regard, if management chiefly takes the initiative to make use of the ICE Regulations, employer-dominated arrangements will be imposed, and consequently, collective consultation will fail to mature in many workplaces, especially where there is a poor history of advocacy with regard to employee rights. Where this is the case, the information and consultation arrangements will potentially end up being just a form of symbolic participatory mechanism which is: *“functional, voluntary and unitarist in outlook”* (Cressey, 2009: p. 158), one that takes the form of a *“managerialist process”*, rather than a consistent mechanism that promotes *“social dialogue”* at the national level (Gold et al., 2007: p. 7).

Drawing on the above analysis and considering the idiosyncrasies and different belief system that characterise the context of UK industrial relations, when compared with other EU countries, it would seem that this context cannot be altered solely by the implementation of the ICE Regulations. That is, the distance from some other EU countries is likely to remain unless the voluntarism and non-regulatory tradition, which results in *“unitary forms of worker involvement”* (Blyton and Turnbull, 2004: p. 259), is fundamentally challenged by statutory and binding requirements. Unfortunately, there is very little evidence, in particular from the research outcomes, to support the contention of the imminent *“demise of voluntarism”* (Roche, 2005; cited in Doherty, 2008: p. 610), within the context of British industrial relations. Moreover, in this regard, given the prevailing philosophy and institutionalisation of employee involvement and workplace democratisation, as revealed in much of the

literature, the UK will probably continue to forge a quite distinct route from those EU countries that are following the principles of the European social model.

In terms of the conditions found in the UK, the conducted research supports the view that substantial developments in employee voice arrangements are unlikely to be achieved by “*legislatively grounded promptings*” (Doherty, 2008: p. 619) or “*legally-prompted forms of employee participation*” (Hall and Terry, 2004; cited in Dundon and Wilkinson, 2009: p. 415). In fact, the most feasible scenario that will continue to predominate is that of “*legislatively prompted voluntarism*”, which cannot stimulate radical changes in employee involvement practices in the UK (Hall and Terry, 2004: p. 5; Hall, 2005a: p. 16; Tailby and Winchester, 2005: p. 447; Gollan and Wilkinson, 2007a: p. 1138 and 2007b: p. 1153). In other words, the transposition of the EU Directive (2002/14/EC), into the UK employment legislation, may actually result in “*maintaining the voluntarist tradition albeit within a statutory framework*” (Gollan and Wilkinson, 2007b: p. 1156), with the consequent outcome being the diffusion of organisation-specific information and consultation arrangements, rather than leading to a binding and statutory imposition of a default model in relation to employee participation (Hall and Terry, 2004; Hall, 2005b; Hall et al. 2009; Dundon and Wilkinson, 2009). In concurrence with the arguments of Doherty (2008) and Gospel et al. (2003), the empirical evidence from this research indicates that under these circumstances the newly established information and consultation arrangements are based on the “*event driven disclosure model*” (Gospel et al., 2003: p. 346; cited in Doherty, 2008: p. 611), in that they are predominantly triggered by employer-induced events. As a result, such arrangements are best characterised as “*palliative*” rather than “*preventative*”, having a minor and temporary impact on the employment relationship (Doherty, 2008: p. 611). That is, employee voice and participation arrangements that come into fruition under the ICE Regulations are more likely to continue to flourish within the current context and thus imitating “*a robust form of legislatively-prompted voluntarism*” (Hall, 2006; cited in Doherty, 2008: p. 616).

9.5 The Evolutionary Impact of the ICE Regulations

9.5.1 An Opportunity to Strengthen Industrial Democracy and Employee Voice Arrangements in the Workplaces?

From the optimistic point of view, the ICE Regulations could bring significant changes in those workplaces that hitherto have lacked sufficient forms of representation. Moreover, although employees usually have limited knowledge about the rights provided under the legislation, management usually has the expertise and ability to establish information and consultation arrangements. In particular, HR people can provide the necessary resources for the workforce representatives to acquire in-depth knowledge about the ICE Regulations and thus the employees can be better informed regarding their own statutory rights. Furthermore, on the positive front, Gollan and Wilkinson (2007a) highlight the fact that management could be motivated to set up new employee voice arrangements, on the one hand, so as to comply with the legislation and on the other, because they perceive that this may: improve employee commitment, lead to better organisational performance and result in more co-operative employment relations. Nevertheless, the case-study evidence has revealed that whilst the Constitution Agreement documents have been based on the logic of having communication and consultation bodies or councils that provide opportunities for discussions on a range of organisational aspects, the main focus is on using these entities to improve business performance. For instance:

“[in the case-study one]...to provide a framework in order to continually improve business performance through the involvement of all employees in the decision making...” (Constitution Agreement Document, April 2005: p. 3),

“[in the case-study three]...effective communication between itself [i.e. the organisation], its employees and its customers is crucial to its operation and maximisation of its profits...” (Communication Policy, October 2006: p. 1),

“[in the case-study four]... involving employees in matters concerning the company and its workforce will lead to improvements in performance and the success of its business...” (Constitution Agreement, September 2006: p. 1).

The above quotes show that there are still powerful “*barriers*”, with regard to the instigation of industrial democracy in UK workplaces, because many employers still exhibit “*deeply rooted*” unitary behaviour when it comes to employment relations (Brannen, 1983: p. 155). Moreover, according to the Bullock Report (1977: p. 171), it is still evident that “*it is unwise to impose ‘[industrial] democracy’ on those who are unready or unwilling to receive it*” and that the active role of all parties is considered to be essential for the efficacy of employee voice arrangements. Within this perspective, the introduction of new arrangements in case-studies two and four on an ad hoc basis, with the purpose of supporting business goals and strategies, cannot be considered good practice towards the real enhancement of workplace democracy. The conducted research indicates that full consideration should be given to the needs and interests of employees, because the consultation process will be more effective if trust is developed between all parties concerned, as this is more likely to result in a sustained notion of partnership. The following quotes from the Constitution Agreement documents in three of the four case-studies illustrate that on paper mutuality and trust are clear goals:

“[in the case-study one]...consultation is the process by which management and employee representatives jointly examine and discuss issues of mutual interest. It involves seeking acceptable solutions to issues through a genuine exchange of views and information...” (Constitution Agreement Document, April 2005: p. 3),

“[in the case-study three]...[one of the objectives of the Store Council is] to build mutual trust and co-operation...” (Communication Policy, October 2006: p. 1),

“[in the case-study four]...[the role of the Bridge Forum is achieved through] direct dialogue, in a spirit of co-operation, with elected employee representatives...” (Constitution Agreement, September 2006: p. 1).

However, in spite of the above quoted goals, only in case-study one is there much evidence from the interviews with the employee representatives, which confirms that such objectives are actually achieved on the ground. In some highly unionised workplaces, such as the Manchester site of case-study one, where coherent and consistent forms of representation are already widespread, the ICE Regulations could be the stimulus in leading to further improvement of employee voice mechanisms,

especially for non-unionised sections of employees, but this does not appear to be the reality, as yet. As soon as the union representatives could have more open and flexible attitude at this site, separate information and consultation arrangement could be developed that would cover both unionised and non-unionised employees, with the union representatives sharing their own expertise and learning with the non-unionised employees. Subsequently, such an arrangement could improve the efficacy of employee voice, by resulting in a consistent form of dual channel of representation at this particular workplace and moreover, it could be employed at other workplaces of a similar nature. With respect to this, a number of authors have supported the perspective that complementary mechanisms of representation can co-exist together and lead to more effective employee voice, under certain circumstances (Gollan and Wilkinson, 2007a; Pyman et al., 2006). On the practical level, employee voice arrangements at the Felixstowe site and Bridgwater depot sites (in case-studies one and two respectively) illustrate typical examples of good practice, with regard to the effective operation of dual channel of representation. In a similar vein, Edwards et al. (2007) argue that the ICE Directive can have a substantial impact, if “*consultation-based*” advocacy is permitted to evolve alongside “*traditional union-based arrangements*” (p. 86).

Nevertheless, the conducted research indicates that strong consideration needs to be given to the legitimate role of trade union representatives and the employees should have an explicit understanding of where the demarcation line between consultation and negotiation lies. In this regard, serious reservations were expressed just before the transposition of the ICE Directive into UK legislation, with works councils and union forums being starkly seen in some cases as “*competitors rather than being complementary to one another*” (Watling and Snook, 2003: p. 268). Under this perspective, it is contended that if the legitimacy of union rights is challenged and trust is damaged, both joint consultation and collective representation will be undermined. With respect to this, the guides published by Unite and Amicus section officers provide a comprehensive analysis about the possible ways that employers could seriously imperil trade union roles through the imposition of inferior information and consultation arrangements. Moreover, a guide published by USDAW (2006) quotes an example of an inferior arrangement, through which the employer was able to put items on the agenda of the consultation forum meetings that

previously used to be issues relating only to collective bargaining. In order to avoid such outcomes, this guide suggests that both unionised and non-unionised employees should endeavour to ensure that consultation and union-based arrangements are transparently established and clearly distinguished through a mutual agreement by the parties concerned. By so doing, it will be harder for management to introduce broad consultation councils that compromise the purposes of collective bargaining and negotiation.

In general, simply establishing arrangements that predominantly involve communication mechanisms should not be considered sufficient enough in relation to the efficacy of employee voice (Bonner and Gollan, 2005). Vital and true consultation should be enforced and implemented through the active involvement of all parties and the agendas of meetings should be set in a pluralist manner. Commitment from top management is also necessary, especially if employee representatives lack the required expertise, and the provision of training and development activities has also a “*critical role to play*” (Sisson, 2002: p. 17). Otherwise, the effectiveness of such employee voice arrangements will be seriously limited and the ICE Regulations will end up to be just a “*damp squib*” (Hall 2006: p. 471; cited in Cressey, 2009: p. 155).

The empirical evidence has shown that the ICE Regulations have mainly provided the opportunity for partnership in workplaces where compliance with the statutory provisions was previously lacking. However, it is questionable whether these changes have established strong and effective systems of employee representation (Hall et al., 2007, 2008 and 2009), because only information sharing and communication have been introduced, in practice, and thus, consultation has failed to emerge. Finally, the statutory provisions of the legislation are predominantly providing opportunities in non-unionised workplaces, such as case-studies three and four, where there has been a need for regulatory enforcement that hitherto did not exist. By contrast, in highly unionised workplaces it appears that unionised employees prefer to adhere to their unmodified union-based arrangements, rather than to the relatively inferior and insecure arrangements that are often established through the implementation of the ICE Directive.

It is concluded that employees cannot rely exclusively on the statutory provisions contained within the ICE Regulations because all parties (management, employees and trade unions) need to be actively and equally involved in the formation of workplace partnership during the process of institutionalising the information and consultation arrangements (Blyton and Turnbull, 2004). Otherwise, as Marsden (2007) contends, these arrangements will end up being a weak form of employee involvement. In addition, other combined synergies, such as: trust, high commitment and involvement, management and employees attitudes, union strategies, external economic conditions and business pressures, together with the enforcement of legislative provisions and an active role being played by external independent bodies/institutions and agencies of enforcement, such as: CAC, EAT and ACAS, can contribute further to the development of these arrangements and establishment of more effective forms of employee voice, in concurrence with the key objectives of the EU Directive (2002/14/EC). In particular, Dix and Oxenbridge (2003) stress the role that ACAS can generally play in the arena of information and consultation arrangements.

As well as providing opportunities for non-unionised employees, the transposition of the ICE Directive in the UK could also be beneficial for unionised workplaces, especially where there is minority membership and a formal trade union recognition agreement does not exist, because the legislation can help the trade union representatives to get a foothold on consultative councils. With respect to this issue, it has already been highlighted that Unite and USDAW have published very comprehensive guides to their members about the potential opportunities that the ICE Regulations can allow for them. This matter is underpinned by Brown and Nash (2008), who argue that:

“...for many in the trade union movement, statutory consultation rights have offered a better prospect of bolstering union organisation than the blunt and unwieldy instrument of statutory recognition procedures of 1999...” (p. 101).

That is, from this perspective, organised labour can use the ICE Regulations for its own benefit by participating in consultative councils and thereby gradually introducing industrial democracy in UK workplaces. In sum, now that the ICE

Regulations have been embedded in UK employment law, they can form a solid base that provides the impetus for future legislative developments that will potentially promote, more readily, the ideas of social partnership and workplace democratisation.

9.5.2 An Opportunity to Harmonise the Context of British Industrial Relations with EU Employment Policy?

The attempt to harmonise and establish similar employee voice arrangements for information sharing and consultation across EU countries is not a new idea and neither an innovative development, as it stems back to the EC debates of the 1970s with regards to EWCs (Gold and Schwimbersky, 2008). In their current manifestation, employee participation and consultation arrangements have their origins in the 1980s, with the main stimulus coming from the Vredeling proposal (Blanpain et al., 1983; Docksey, 1986; Gold, 2009). Before the official transposition of the ICE Directive, most of the EU countries⁶³, with the exception of the UK and Ireland, had sufficient statutory and legislative frameworks for the consultation of employees on general business issues (Broughton, 2005). Moreover, the provisions of the ICE Regulations were introduced into British employment law in a very slow manner. The main reasons for this lie in: the strong opposition by the Conservative governments in the past, the vigour of employer resistance (i.e. CBI), and the wider context of the voluntarist tradition that strongly characterises UK industrial relations.

With regards to workplace democracy and employee participation, the election of a Labour government in 1997 provided the grounds for optimism and it transpired that the UK became relatively more sympathetic towards the EU employment policy, when compared with the Conservative party. As a result, during the 1990s it was considered possible that EU initiatives might bring a convergence between the “*social rights of British workers and other EC workforces*” (Cressey, 1993: p. 103). In this regard, Carby-Hall (2006) argues that the ICE Directive can bring important changes in the context of British industrial relations.

⁶³ Before the transposition of the ICE Directive, the Republic of Ireland and the UK were the only EU countries without a general statutory and regulatory framework for consultation of employees. After the enlargement of the EU (in 2004 and 2007), there was a cluster of member states in a similar position to these two countries, namely: Bulgaria, the Republic of Cyprus, Malta, Poland, and Romania (Carley and Hall, 2008).

“There is little doubt that it is thanks to the influence of European legislation translated into British law that the UK is beginning to develop some kind of social dialogue, not only in limited fields but also...in wider spheres and more general spheres of information and consultation” (ibid: p. 441).

Nonetheless, the antecedents of the ICE Directive are rooted in the debates of the 1980s, when the circumstances and needs of the labour market were quite different and therefore, it is questionable to what extent this legislation is now sufficient, by itself, to bring substantial changes at the workplace level and result in convergence or harmonisation of employee participation arrangements across EU countries (Broughton, 2005). It is also noteworthy that the recent reservations expressed by the British Labour government towards the “*Charter of Fundamental Rights*”⁶⁴ in summer 2007, has fostered further scepticism about the UK’s commitment towards the European social dimension⁶⁵.

As previously mentioned, several EU countries had a comprehensive statutory framework for employee consultation well in advance of the official transposition of the ICE Directive. In particular, many member states, such as: Belgium, Netherlands, Luxemburg, Austria, Germany, Sweden and Finland have had coherent statutory provisions for co-determination rights, whereby for many years employers in these countries have been obliged to “*reach agreement with employees on a range of issues*” (Broughton, 2005: p. 211). Similarly, Milner (2001: p. 331) emphasises the coherent regulatory framework in relation to employment issues in some EU countries, such as: Sweden and Germany, and also cites the “*relatively strong employment protection legislation*” in France that strongly contrasts with the “*lightly-regulated labour market*” of the UK. Therefore, it is argued that the phased implementation of the ICE Regulations in the UK, starting from 6th April 2005, has still left the regulatory and statutory context of British industrial relations relatively inferior and weak, when compared with other countries of the EU. However, the convergence towards “*a genuine EC-level industrial relations area*” is proving to be a rather “*slow*” process (Gold, 1998: p. 131). In this vein, the flexible statutory

⁶⁴ *Charter of Fundamental Rights of the European Union* (2007/C 303/01), *Official Journal of the European Union*, 14th December 2007.

⁶⁵ Further details are provided at the website of Federation of European Employers: (<http://www.fedee.com/histsoc.html>).

framework of the ICE Directive has been described as an example of legislation that is actually causing “*protracted political compromises*” and it is unlikely to bring “*binding, ...comparatively homogeneous and equalising legal prescriptions*” between the UK and other EU countries at any time in the near future (Keller, 2002: p. 442).

On the other hand, under certain circumstances the legislation can operate as a safeguard in the enforcement of structured information and consultation arrangements, which may eventually lead to harmonisation in employee participation practices in the majority of British workplaces. In this regard, the research outcomes indicate that from the theoretical point of view the ICE Regulations are definitely a significant development for the UK employment law, because they provide an enforceable legal framework that is applicable in most of the workplaces. Furthermore, at the community level this EU Directive could bring about an overall consistency between the EU member states, because it sets a basic standard for information sharing and consultation at the workplaces. From the optimistic perspective, it can be contended that the ICE Directive, in practice, signifies the completion of “*a project for the harmonisation of employees rights that commenced back in the 1960s*” (Cressey, 2009: p. 157). In addition, as already pointed out, if the implementation of the legislation becomes more widespread and is enforced further, it may prove to be a basis for changing the lightly-regulatory context of British industrial relations. However, the case-study evidence presented in this thesis gives little indication that such substantial changes are taking place on a widespread basis throughout the UK, as the barriers that hinder any move away from a voluntarist industrial relations tradition still remain in place.

In highly unionised workplaces, there is much less likelihood for alterations to existing arrangements, because employees and union representatives tend to adhere strongly to the collective bargaining that has already been established. Even in the case-studies where changes were made, the relatively newly developed arrangements are based on unilateral and opportunistic initiatives by management on an ad-hoc basis, which one-sidedly prioritise business needs and would appear to lead to the proliferation of organisation-specific arrangements that take the form of legislatively-prompted voluntarism. In these circumstances, the ICE Regulations turn out to be a weak form of legislation that can hardly “*neutralise market influence, promote*

universal rights or inhibit national idiosyncrasies” (Keller, 2002: p. 442; cited in Cressey, 2009: p. 158) and thus the “*demise of voluntarism*” is quite unlikely to happen at any time in the near future (Roche, 2005; cited in Doherty, 2008: p. 610). Nevertheless, in spite of this, the ICE Directive, over time, can bring harmony between the UK and other EU member states in relation to basic statutory rights on employee consultation.

CHAPTER TEN

CONCLUSIONS AND FUTURE PROSPECTS

10.1 Initial Implications from the Implementation of the ICE Regulations

The four case-studies, in this thesis, provide an insight into the influence of the ICE Regulations on the first threshold of organisations. Certainly, the legislation has brought an impetus for catalytic changes and action, but this has been predominantly evident in the non-unionised sector (as was originally envisaged by other researchers, such as: Gollan, 2005 and Pyman et al., 2006), and especially in those workplaces where there is a high reliance on direct forms of employee voice and well-structured forms of representation did not already exist. It appears that highly unionised organisations have superior arrangements already in place in comparison with the statutory provisions of the legislation, and therefore it is posited that in many cases the ICE Regulations can contribute little, if anything, to the contemporary needs of most organisations.

From the optimistic point of view, the ICE Regulations can be considered a good starting point for gradual convergence towards the establishment of basic and standard information and consultation arrangements amongst the majority of workplaces in Great Britain. Moreover, it could be argued that the ICE Directive will prove to be the catalyst for achieving and providing for most of the employees in UK workplaces minimal information and consultation rights that are in harmony with the European employment policy. Furthermore, within the wider context of European industrial relations, this EU Directive could result in bringing consistency in relation to the establishment of minimum and standard social rights for workers amongst all EU members as well the formation of common forms of collective consultation. Nonetheless, the empirical findings of this thesis indicate that enforcement of joint-decision making or even co-determination rights in British workplaces will only be possible through the enactment and transposition of further directives and regulations. Moreover, such developments cannot emerge at once, because the deeply embedded

voluntarism and contextual particularities, which characterise British employment relations, are major obstacles towards the process of harmonisation of the UK with the practices of EU employment policy. In concurrence with this perspective, Cressey (2009) states that “... *a strong European space for worker participation cannot be created overnight...*” (p. 158).

From a theoretical point of view, the efficacy of the newly established information and consultation arrangements is reliant upon various parameters and circumstances, such as: the active involvement and stance of all the partners concerned. In accordance with much of the relevant literature, the case-study evidence reveals that there are few signs of sustainable and effective consultation arrangements in non-unionised workplaces in the UK, because management initiatives are often pre-emptive, being primarily based on unitarism, voluntarism or opportunism rather than on the principles of pluralism (Veale, 2005; Coupar and Stevens, 2005). That is, these initiatives are mainly based on organisational aspects, i.e. business performance or harsh decision-making (including collective redundancies), and they pay much less heed to other issues, such as: mutual trust and co-operative relations in workplaces. In this regard, Ramsey (1997) describes this as a strategy that is adopted by management in order to make employees more receptive to changes arising from economic and financial difficulties, by using structured arrangements of employee representation so as to give the impression that business decisions are being implemented in a fair and transparent manner.

In this thesis, the case-study evidence indicates that the voluntarist and reflexive nature of the ICE Regulations, in many cases, is actually leading to the diffusion and development of tailor-made information and consultation arrangements that are based on ad hoc temporary business needs that are specific for each organisation. Furthermore, in concurrence with the academic literature, these arrangements are usually in the form of “*pre-emptory agreements*” (Geary and Roche, 2005: p. 192) or “*pre-emptive agreements*” (Doherty, 2008: p. 616) and they have the purpose of ensuring no more than a minimal compliance with the requirements of the legislation. As such, these developments are consistent with the framework of “*legislatively*

*prompted voluntarism*⁶⁶”, which can be used to project what will be the likely implications of the ICE Regulations for most British workplaces, as posited by Hall and Terry (2004: p. 226).

The relative absence of initiatives being taken by individual employees in the examined cases can be mainly attributed to their lack of: knowledge, training and expertise and these deficiencies have resulted in being able to exert just a minimal scope of influence in the drawing up of the Constitution Agreement documents. Moreover, the minimal thresholds for endorsing the request to negotiate an agreement proved to be a barrier for employees (as it is illustrated in the Manchester site of case-study one), when having the desire to initiate the establishment of broad consultation arrangements. In this regard, when a threshold of 10 per cent of the workforce is reached, the employees will be able to trigger the procedures for the establishment of new information and consultation arrangements. Furthermore in this context, the attitude of union representatives emerged as being another parameter that is having an effect on the implications of the ICE Directive. In addition, if there are pre-existing arrangements already in place, it is difficult for the employees to challenge them, because in such cases the threshold rises to 40 per cent, which is likely in the vast majority of scenarios to constitute an insurmountable barrier (Hall, 2006). In sum, it would appear that the thresholds built into the ICE Regulations are proving to be a barrier for the employees if they wish to endorse a request to challenge the establishment or modification of information and consultation arrangements, in particular because it has emerged that it is difficult for the employees to coordinate themselves so as to challenge pre-established employee voice arrangements.

There is a conspicuous inadequacy in the contents of the legislation regarding the role of unionised employees, whose input is considered by some academics as crucial in the establishment of effective employee voice arrangements (Lorber, 2006). In addition, the case-study evidence shows that, to date, active involvement by unionised employees is also quite minimal, mainly because the current union-based arrangements have emerged as being superior to the provisions of the legislation in these cases. Thus, the union ambivalence or outright opposition towards the ICE

⁶⁶ Cited in several publications, e.g. Hall (2006: p. 457), Hall et al. (2007: p. 7; 2008: p. 7; 2009a: p. 1; 2009b: p. 1), Butler (2009a: p. 199) and Dundon and Wilkinson (2009: p. 415).

Directive, can be put down to the unions wishing to defend their existing consultation and negotiation arrangements, rather than conceding to the indefinite and inferior agreements provided under the legislation. In this regard, Coupar and Stevens (2005) proved to be quite visionary when they highlighted the failure of current legislation to distinguish clearly between union and non-union employee representation in relation to negotiation and consultation arrangements:

“...designating the boundaries between information, representative consultation and negotiation has been one of the most intractable questions about the regulations...” (p. 51).

This does not mean that the ICE Regulations have not drawn the attention of the trade unions, on the contrary, as it has been highlighted in chapter two, comprehensive guidelines and newsletters have been published for the benefit and interests of trade union members, in relation to the possible opportunities and pitfalls that the ICE Directive entails. In particular, a number of the trade union publications point out that where there is minority membership and no formal trade union recognition agreement, the legislation can provide a foothold for the unionised employees by which union representatives can be elected onto the consultative council. Furthermore, in unionised workplaces, *“strong workplace representative structures”* and *“high membership levels”* are considered essential prerequisites in order to sustain considerable *“benefits for all stakeholders”* (Oxenbridge and Brown, 2002: p. 275).

In general, the case-study evidence confirms the argument of many academics that the transposition of the ICE Directive may subsequently lead to the growing *“proliferation”* of multiple forms of employee representation that are developed for a range of purposes (Bercusson, 2002; Gollan and Wilkinson 2007b: p. 1149). In addition, according to ACAS guidance, *“commitment”* and *“mutual trust”* are considered to be essential for developing effective mechanisms of consultation, especially where newly-established arrangements operate (Dix and Oxenbridge, 2003: p. 73). Moreover, unless all the social partners are provided with equal influence in the progression of these arrangements, it is doubtful whether true and authentic forms of effective consultation and hence industrial democracy or social dialogue can really emerge across UK workplaces.

Up until now, the available evidence suggests that the implementation of the legislation has not proved to be “*a radical development*” (Hall, 2005b: p. 104) that can bring considerable changes to collective consultation in British workplaces. Writing about the broader context of industrial relations, Gold (1998) presciently supported the view that EU legislative initiatives could not bring a substantial “*breakthrough into European-level collective bargaining*” (p. 130) and that the establishment of consistent and convergent arrangements of information-sharing, consultation and negotiation across all EU countries could only be accomplished in a rather “*slow and opportunistic*” way (p. 131). It is also argued that within the current UK industrial relations context, the establishment of a sustainable “*social dialogue*” at the EU level will be hardly achieved (Gold et al., 2007: p. 9). With respect to this, the scepticism and strong reservations that were initially expressed about the “*Europeanisation of industrial relations*” (Keller, 2002: p. 441), when the EU Directive (2002/14/EC) was still in the stage of its early development, have proved to be essentially right, largely because of the “*national differences in social policy*” (Scharpf, 2002; cited in Milner, 2005: p. 107).

Nevertheless, in this thesis, it has been concluded that it is still too early to draw reliable conclusions about the full potentialities of the ICE Regulations, for notwithstanding its limitations and constraints, the legislation provides opportunities for all the stakeholders to challenge and thereby enhance the levels of employee participation in British workplaces. Moreover, the acceptance of the legislation by the UK government represents a significant shift in the prevailing voluntarist context of British industrial relations, because it has led to the establishment, for the first time, of enforceable information and consultation arrangements that are in conjunction with EU employment policy.

10.2 Epilogue and Synopsis

The evidence from this research endeavour, along with the empirical findings of other academic researchers (e.g. Hall et al., 2009), highlights the fact that the different interests of corporate actors and/or social partners are proving to be a difficult hurdle that needs to be overcome, in order to sustain effective and consensual information and consultation arrangements. Even in cases where the provisions of the ICE

Regulations have been used to make substantial changes, the newly-established arrangements have evolved as a result of unilateral activities by management and they have been initiated on an ad hoc basis, in order to deal effectively with specific business issues and challenges. Moreover, the empirical findings of the thesis show that the provisions of the ICE Regulations do not allow much scope in relation to employees' level of influence in decision-making, especially in non-unionised workplaces, which means that the employee representatives are unable to challenge management prerogative and thus they cannot change the power relationship with management representatives.

Thus, the “*barriers*” (Brannen, 1983: p. 155) to the promotion of industrial democracy in UK workplaces remain strongly embedded. The reluctance of British policy-makers to changing this state of affairs can be seen in the UK government's opting out of the Charter of Fundamental Rights in summer 2007, which is considered by many academics as an essential part of the European social agenda (e.g. Follesdal et al., 2007). Therefore, unless a binding legislation, which can provide “...*strict new models for social partnership and 'co-decision-making' or 'joint-regulation'...*” (Keller, 2002: p. 442), is enacted with the support of the government, British employment policy will still remain divergent from the principles of the European social dimension. However, it is to be hoped that the transposition of the EWC and ICE Directives can represent the first steps towards a convergence with regard to the aforementioned matter. In particular, these latest developments can form the catalyst for the enhancement of employee participation across the majority of British workplaces in the future (Carby-Hall, 2006).

The case-study outcomes in this research suggest that it is too simplistic to argue that “*the [ICE] Regulations have been a damp squib*” (Hall, 2006: p. 471), because some of the developments are quite positive or even groundbreaking in some cases. This is particularly so in the non-unionised sector, where it has been revealed that the ICE Regulations are proving to act as a stimulus for developing homogeneity in the majority of British workplaces, in terms of basic and standardised structures of information-sharing and consultation arrangements. However, at present it is doubtful whether these arrangements can deliver effective forms of employee voice, as the case-study evidence has mainly shown that the consultative councils, which were set

up as result of the adoption of the ICE Directive, have strong features of pseudo-consultation. In other words, although the ICE Regulations provide the opportunity for the establishment of structured information and consultation arrangements, they do not provide a consistent basis for employees to challenge management prerogative. Regarding the unionised sector and especially in those workplaces with high levels of union membership, the provisions of the legislation have proved to add little value, because the pre-existing employee voice arrangements appear to be more advanced than those guaranteed by the statutory rights of the ICE Directive.

In general, Cressey (2009) presents three possible scenarios regarding the potential implications and subsequent developments that may arise through the implementation of the EU Directive on employee consultation (2002/14/EC). The first is the most optimistic and stems from the view that the ICE Regulations are a substantial part of a project that originated in the 1960s, which will eventually lead to the realisation of the “*harmonisation of employee rights*” (Cressey, 2009: p. 157) at the EU level. In other words, those adopting this perspective envisage that a “*European industrial relations area*” (ibid) is a reality that can subsequently lead to the Europeanisation of employee participation in Great Britain in accordance with the principles of the European social model.

Under the second scenario, the potential positive outcomes of the ICE Directive are acknowledged, but there are also serious concerns about its capacity to deliver harmonisation of employee rights. These concerns originate from the complexities that characterise industrial relations at the EU level (Marchington, 2005; cited in Cressey, 2009: p. 157) in combination with the dominant traditions and idiosyncrasies of each European country (Keller, 2002). Consequently, it is argued that the Europeanisation of employee participation in Great Britain cannot take place instantly through the simple transposition of the EU directives on employee rights, because consistent principles of employee participation cannot be “*imposed by fiat on heterogeneous national systems and actors*” (ibid: p. 158).

The third scenario is the most pessimistic in relation to the likelihood of there being positive outcomes from EU directives in terms of employee participation. Under this scenario, employee representation structures are considered to continue to rely heavily

on unilateral initiatives by employers. In this regard, Weinz (2006) claims that the EU directives on employee participation are part of “*an old discredited pluralist agenda*” (cited in Cressey, 2009: p. 158), which has resulted in employee voice arrangements, in the modern era, being strongly reliant upon what Sako (1998: p. 12) has termed as “*employers’ goodwill*”. In conclusion, Cressey (2009: p. 158) adopts “*the more sceptical viewpoint*”, which predominantly supports the third scenario, in that he contends that homogeneous arrangements of employee voice and participation are unlikely to be established across all EU countries and that the most plausible outcome is the development of a participation model that is “*...functional, voluntary and unitarist in outlook...*”, as it appears in the cases of the UK and Ireland.

The case-study evidence appears to concur with the view that the most likely general outcome from the implementation of the EU Directive (2002/14/EC) will involve features from both the second and third scenarios. Nevertheless, from the optimistic perspective there are some grounds from the empirical findings for claiming that the ICE Directive is effectively initiating the process of harmonisation of basic and structured information and consultation arrangements between the UK and other EU countries. In this regard, it ensures a minimum-threshold level (Peccei et al., 2008: p. 362) or floor of rights for establishing information and consultation arrangements as soon as organisations seek to comply with the legislative provisions. In addition, the empirical findings from the case-studies clearly indicate that, to date, the established information and consultation arrangements have been heavily reliant upon management initiative and the corporate objectives of organisations and there is little evidence of sustained employee influence on management decision-making. Moreover, as previously noted, the case-studies have provided a number of examples of structured organisation-specific information and consultation arrangements, which are functional and minimally comply with the requirements of legislation, whilst simultaneously maintaining their voluntary and unitarist features (Hall, 2006; Hall et al., 2009; Cressey, 2009). In sum, even though the general context of British industrial relations will most likely maintain its core features of voluntarism, it is evident that it can be modified, to some extent, owing to the statutory framework on employee rights that originates from the EU directives on employee participation and the principles of European employment policy. Nevertheless, under these circumstances, it is very

dubious whether employee voice arrangements in UK workplaces will be substantially altered in the near term future.

10.3 Future Prospects and Further Research

The case-study research of this thesis has provided key insights into the potential opportunities and limitations consequent upon the transposition of the ICE Directive into UK law, within three years of their initial implementation. Nevertheless, in order to have a more in-depth and consistent analysis of the opportunities and beneficial outcomes that this EU Directive can bring within the context of British industrial relations, more time needs to elapse. More specifically, in this regard, further comprehensive research will need to be undertaken in order to evaluate thoroughly the extent to which the ICE Regulations are playing a significant role in transforming employment relations by enhancing employee participation in UK workplaces.

Moreover, in this thesis the acquired sample of the case-studies only includes organisations within the first threshold, i.e. workplace sites with at least 150 employees, while the lower thresholds coming under the more recent phases of the implementation of the ICE Regulations, in 2007 and 2008, do not fall within the time-frame and objectives of the empirical research. As it has been already mentioned in chapters one and two, the two subsequent phases are currently being addressed by the BERR research project⁶⁷ (Hall et al., 2007, 2008 and 2009), which is employing longitudinal case-study research, constituting the first thorough investigation into the full implications of the ICE Regulations that covers all the stages of the phased implementation. Early results report that there are “*considerable similarities*” regarding consultative councils across medium-sized (i.e. with at least 100 employees) and large organisations (Hall et al., 2008: p. 1). Nevertheless, there are also some notable differences, such as: less formality in terms of employee relations, “*lower incidence of contested elections for employee representatives*” and “*fewer ‘strategic’ issues being tabled for discussion by management*” (ibid) in the medium-sized organisations. Furthermore, employee representatives in such organisations tend to receive a “*greater recognition of their role*” by their colleagues, when compared

⁶⁷ The Department for Business, Enterprise and Regulatory Reform (BERR) was created in June 2007, after the disbanding of the Department of Trade and Industry (DTI). In June 2009, BERR was disbanded and the Department for Business, Innovation and Skills (BIS) was subsequently created.

with “*their counterparts in the larger organisations*” (ibid). The provisional empirical evidence, regarding the lowest threshold number of employees, reveals that the information and consultation arrangements were established by “*internal employment relations/company considerations and key individual managers rather than by external factors or the experience of major change*” and thus, the impact of the ICE Regulations has been minimal or “*slight*” in many of these case-study organisations (Hall et al., 2009b: p. vii).

Nevertheless, further longitudinal research is required, because given the slow pace of changes in most British workplaces, it is most likely that many companies have yet to take the appropriate action so as to comply with the provisions of the ICE Regulations and thus only future investigation and in-depth case-study research will fully capture their impact on UK industrial relations. Moreover, once there is a clearer understanding of how the context of employee participation has changed in response to the ICE Directive, comparative studies with other EU member states will prove prolific in assessing the degree to which there is convergence or Europeanisation across the countries concerned. In other words, such research endeavours would identify the extent to which employee voice, social partnership and workplace democratisation within the context of British industrial relations are conforming to the norms found in other EU countries, when it comes to issues relating to employee rights (e.g. co-determination rights), such as: Austria, Belgium, Finland, Germany, Luxembourg, Netherlands and Sweden. From the quantitative research perspective, further survey research is necessary in order to evaluate the impact of the legislation on various organisational aspects, such as the: employment relations climate, perceived benefits to stakeholders and social partners, levels of employee commitment and organisational productivity and performance (Peccei et al., 2007 and 2008; Cox et al., 2007). In this context, the forthcoming WERS analysis, apart from revealing the current UK industrial relations environment, will also provide the foundation for more in depth research on the issues discussed above.

Finally, it would appear from the research outcomes that the ICE Directive may have a greater impact in smaller organisations, because they tend to have less formalised types of employee representation. That is, the ICE Regulations may force changes on relatively small or medium-sized companies, which previously “*have often by-passed*

or ignored employment rights” (Wilkinson, 1999; Wilkinson et al., 2007: p. 1280). Thus, once the potential implications of the ICE Regulations become more notable in small or medium-sized companies, comparative investigation and research across different organisations from each of the three thresholds will be useful for eliciting whether or not employees in the smaller organisations have narrowed the gap, in terms of their consultation arrangements when compared with the larger organisations.

BIBLIOGRAPHY - REFERENCES

ACAS (2005) *Information and Consultation: Good Practice Advice*. ACAS Official Website, <http://www.acas.org.uk/index.aspx?articleid=383>.

Ackers, P., Marchington, M., Wilkinson, A., and Dundon, T. (2005) 'Partnership and Voice, with or without Trade Unions: Changing UK Management Approaches to Organisational Participation', in Stuart, M. and Martinez Lucio M. (eds.) *Partnership and Modernisation in Employment Relations*. Oxon and New York: Routledge, pp. 23-45.

Ackers, P., Marchington, M., Wilkinson, A., and Goodman, J. (1992) 'The Use of Cycles? Explaining Employee Involvement in the 1990s', *Industrial Relations Journal*, 23 (4): 268-283.

Ackers, P., and Payne, J. (1998) 'British Trade Unions and Social Partnership: Rhetoric, Reality and Strategy', *The International Journal of Human Resource Management*, 9 (3): 529-550.

AMICUS (2004) *Information and Consultation at Work: An Amicus Guide for Members*.

Ashton, D., and Sung, J. (2002) *High Performance Work Practices: A Comparative Analysis on Issues and Systems*. Geneva: ILO.

Bacon, N. (2003) 'Human Resource Management and Industrial Relations', in Ackers, P., and Wilkinson, A. (eds.) *Understanding Work and Employment in Industrial Relations in Transition*. Oxford: Oxford University Press, pp. 71-88.

Bacon, N., and Storey, J. (2000) 'New Employee Relations Strategies in Britain: Towards Individualism or Partnership?', *British Journal of Industrial Relations*, 38 (3): 407-427.

Baldry, C. (1994) 'Convergence in Europe: A Matter of Perspective?', *Industrial Relations Journal*, 25 (2): 96-102.

Barnard, C., and Deakin, S. (2000) 'In Search of Coherence: Social Policy, the Single Market and Fundamental Rights', *Industrial Relations Journal*, 31 (4): 331-345.

Beardwell, I. (1998) 'Voices On', *People Management*, 4 (11): 32-36.

Beaumont, P. B. (1991) *Change in Industrial Relations*. London: Routledge.

Beaumont, P. B., Fischbacher, M., Hunter, L., and Pate, J. (2005) 'Explorations in Building Trust in Joint Consultation', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 89-105.

Beaumont, P. B., and Hunter, L. C. (2003) *Information and Consultation: From Compliance to Performance*. London: CIPD.

Beaumont, P. B., and Hunter, L. C. (2007) 'The Process of Consultation: Responding to Challenge', *The International Journal of Human Resource Management*, 18 (7): 1228-1245.

Benson, E. (2009) 'Employment Protection', in Gold, M. (ed.), *Employment Policy in the European Union: Origins, Themes and Prospects*. Hampshire (UK) and New York (USA): Palgrave Macmillan, pp. 93-118.

Benson, J. (2000) 'Employee Voice in Union and Non-union Australian Workplaces', *British Journal of Industrial Relations*, 38 (3): 453-459.

Bercusson, B. (1996) *European Labour Law*. London: Butterworths.

Bercusson, B. (2002) 'The European Social Model Comes to Britain', *Industrial Law Journal*, 31(3): 209-244.

Berg, B. L. (1989) *Qualitative Research Methods for the Social Sciences*, 2nd Edition. Boston: Allyn and Bacon.

Blanpain, R. (1983) 'Information and Consultation of Employees: A General Introduction', in Blanpain, R., Blanquet, F., Herman, F., and Mouty, A. (eds.) *The Vredeling Proposal: Information and Consultation of Employees in Multinational Enterprises*. Kluwer, Deventer, The Netherlands, pp. 21-34.

Blanpain, R., Blanquet, F., Herman, F., and Mouty, A. (1983) *The Vredeling Proposal: Information and Consultation of Employees in Multinational Enterprises*. Kluwer, Deventer, The Netherlands.

Blinder, A. (1990) *Paying for Productivity*. New York: Brookings Institution.

Blyton, P., and Turnbull, P. (2004) *The Dynamics of Employee Relations*, Management, Work and Organisations Series, 4th Edition. Hampshire and New York: Palgrave Macmillan.

Bonner, C., and Gollan, P. (2005) 'A Bridge over Troubled Water: A Decade of Representation at South West Water', *Employee Relations*, 27 (3): 238-258.

Boxall, P., and Purcell, J. (2003) *Strategy and Human Resource Management*, 1st Edition. Houndmills: Palgrave Macmillan.

Brannen, P. (1983) *Authority and Participation in Industry*. London: Batsford Academic and Educational Ltd.

Bratton, J. (2007a) 'Union-Management Relations', in Bratton, J., and Gold, J. (eds.) *Human Resource Management: Theory and Practice*, 4th Edition. Palgrave Macmillan, pp. 401-439.

Bratton, J. (2007b) 'Employee Involvement and Relations', in Bratton J., and Gold, J. (eds.) *Human Resource Management: Theory and Practice*, 4th Edition. Palgrave Macmillan, pp. 440-478.

Brewster, C. (2007) 'Comparative HRM: European Views and Perspectives', *The International Journal of Human Resource Management*, 18 (5): 769-787.

Brewster, C., Wood, G., Croucher, R., and Brookes, M. (2007a) 'Are Works Councils and Joint Consultative Committees a Threat to Trade Unions? A Comparative Analysis', *Economic and Industrial Democracy*, 28 (1): 49-77.

Brewster, C., Croucher, R., Wood, G., and Brookes, M. (2007b) 'Collective and Individual Voice: Convergence in Europe?', *The International Journal of Human Resource Management*, 18 (7): 1246-1262.

Broughton, A. (2005) 'European Comparative Practice in Information and Consultation', in Storey, J. (ed.) *Adding Value Through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 200-218.

Brown, R. K. (1988) 'The Employment Relationship in Sociological Theory', in Gallie, D. (ed.) *Employment in Britain*. Oxford: Blackwell, pp. 33-66.

Brown, W. (1981) *The Changing Contours of British Industrial Relations: A Survey of Manufacturing Industry*. Oxford: Basil Blackwell.

Brown, W., and Nash, D. (2008) 'What has been Happening to Collective Bargaining under New Labour? Interpreting WERS 2004', *Industrial Relations Journal*, 39 (2): 91-103.

Bulletin of the European Communities (1975) *Employee Participation and Company Structure in the European Community*, Supplement 8/75. European Communities Commission,

Bullock A. (Lord) (1977) *Report of the Committee of Enquiry on Industrial Democracy*. London: HMSO, CMND 6706.

Butler, P. (2005) 'Non-union Employee Representation: Exploring the Efficacy of the Voice Process', *Employee Relations*, 27 (3): 272-288.

Butler, P. (2009a) 'Non-union Employee Representation: Exploring the Riddle of Managerial Strategy', *Industrial Relations Journal*, 40 (3): 198-214.

Butler P. (2009b) 'Riding Along on the Crest of a Wave: Tracking the Shifting Rationale for Non-Union Consultation at FinanceCo', *Human Resource Management Journal*, 19 (2): 176-193.

Carby-Hall, J. R. (2006) 'The Charter of Fundamental Rights of the European Union – The Social Dimension', *Managerial Law*, 48 (4): 430-446.

Carley, M., and Hall, M. (2008) 'Impact of the Information and Consultation Directive on Industrial Relations', *European Foundation for the Improvement of Living and Working Conditions*, Institution: SPIRE Associates/IRRU (University of Warwick), ID: TN0710029S,
<http://www.eurofound.europa.eu/eiro/studies/tn0710029s/tn0710029s.htm>

Casey, B., and Gold, M. (2000) *Social Partnership and Economic Performance: The Case of Europe*. Cheltenham: Edward Elgar.

Casey, H., and Gold, M. (2005) 'Peer Review of Labour Market Programmes in the European Union: What Can Countries Really Learn from One Another?', *Journal of European Public Policy*, 12 (1): 24-43.

CBI (2006) *Employment Trends Survey*, September 2006. London: Confederation of British Industry.

CHA (2005) *A Little More Conversation: Employee Communications Approaches and Their Impact*, 'A CHA Report' (The Workplace Communications Consultancy). London: Autumn.
<http://zookri.com/Portals/6/reports/A%20little%20more.pdf>

Charlwood, A., and Terry, M. (2007) '21st-Century Models of Employee Representation: Structures, Processes and Outcomes', *Industrial Relations Journal*, 38 (4): 320-337.

Charter of Fundamental Rights of the European Union (2007/C 303/01) 'Notices from European Union Institutions and Bodies', *Official Journal of the European Union*, (European Parliament, Council and Commission), 14th December 2007, Official website:

(<http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:303:SOM:EN:HTML>).

CIPD (2004) *A Guide to Meaningful Information and Consultation*. Published by the 'Chartered Institute of Personnel and Development', London: CIPD, Official Website: (<http://www.cipd.co.uk/subjects/empreltns/comconslt/infoconsultguid.htm>).

Clegg, H. A. (1970) *The System of Industrial Relations in Great Britain*. Oxford: Blackwell.

Clegg, H. A. (1979) *The Changing System of Industrial Relations in Great Britain*. Oxford: Blackwell.

Coats, D. (2003) *What Next for Unions?* London: Union 21.

Confederation of British Industry (CBI) (2004) *Employers' Guide to the Law on Informing and Consulting Employees*. London: Confederation of British Industry.

Coriat, B. (2002) *Employee Participation and Organisational Change in European Firms: Evidence from a Comparative Overview of Ten EU Countries*. CEPN-IIDE Research Unit 7115, University of Paris.

Coupar, W., and Stevens, R. (2005) 'The IPA Perspective', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 38-56.

Cox, A., Marchington, M., and Suter, J. (2007) 'Embedding the Provision of Information and Consultation in the Workplace: A Longitudinal Analysis of Employee Outcomes in 1998 and 2004', *Employment Relations Research Series No. 72*, DTI (in collaboration with EMAR), WERS 2004 Grants Fund, February 2007.

Cox, A., Zagelmeyer, S., and Marchington, M. (2006) 'Embedding Employee Involvement and Participation at Work', *Human Resource Management Journal*, 16 (3): 250-267.

Cressey, P. (1993) 'Employee Participation', in Gold, M. (ed.) *The Social Dimension: Employment Policy in the European Community*. Hampshire and London: Macmillan Publishers, pp. 85-104.

Cressey, P. (1998) 'European Works Councils in Practice', *Human Resource Management Journal*, 8 (1): 67-79.

Cressey, P. (2009) 'Employee Participation', in Gold, M. (ed.), *Employment Policy in the European Union: Origins, Themes and Prospects*. Hampshire (UK) and New York (USA): Palgrave Macmillan, pp. 139-159.

Cressey, P., Eldridge, J. E. T., and MacInnes, J. (1985) *Just Managing: Authority and Democracy in Industry*. Milton Keynes and Philadelphia: Open University Press, Printed by Alden Press, Oxford, Great Britain.

Cressey, P., Eldridge, J. E. T., Norris, G., and MacInnes, J. (1981) 'Industrial Democracy and Participation: A Scottish Survey', *Department of Employment Research no. 28*, November.

Creswell, J. W. (1994) *Research Design: Qualitative and Quantitative Approaches*. Thousand Oaks, CA: Sage Publications.

Crouch, C. (1993) 'A New Anglo-German Industrial Relations Agenda', Paper Presented at a Workshop Organised by the Anglo-German Foundation, Berlin: 17-18 July.

Cully, M., Woodland, S., O'Reily, A., and Dix, G. (1999) *Britain at Work - As Depicted by the 1998 Workplace Employee Relations Survey*. London: Routledge.

D'Art, D., and Turner, T. (2005) 'Union Recognition and Partnership at Work: A New Legitimacy for Irish Trade Unions?', *Journal of Industrial Relations*, 36 (2): 121-139.

Daniel, W. W., and Millward, N. (1983) *Workplace Industrial Relations in Britain: The DE/PSI/SSRC Survey*. London: Heinemann.

Davies, P. (1994) 'A Challenge to Single Channel?', *Cases: C-382/92 and C-383/93, Commission v United Kingdom, Industrial Law Journal*, 23 (3): 272-285.

Davies, P., and Kilpatrick, C. (2004) 'UK Worker Representation after Single Channel', *Industrial Law Journal*, 33 (2): 121-151.

Deakin, S., and Koukiadaki, A. (2007) 'The Capability Approach and the Reception of European Social Policy in the UK: The Case of the Information and Consultation of Employees Directive', Final Report, Centre for Business Research, University of Cambridge, September 2007.

Denzin, N. K., and Lincoln, Y. S. (eds.) (1994) *Handbook of Qualitative Research*. London: Sage Publications.

Department of Trade and Industry (DTI) (1996) *Redundancy Consultation and Notification*. PL 833 (rev 3).

Department of Trade and Industry (DTI) (1998a) *Employees' Information and Consultation Rights on Transfers of Undertakings and Collective Redundancies*. Public Consultation Document URN 97/988.

Department of Trade and Industry (DTI) (1998b) *Fairness at Work*. London: HMSO.

Department of Trade and Industry (DTI) (2002) *High Performance Workplaces: The Role of Employee Involvement in a Modern Economy*. A Discussion Paper, July 2002.

Department of Trade and Industry (DTI) (2003a) *High Performance Workplace – Informing and Consulting Employees*. URN 03/831.

Department of Trade and Industry (DTI) (2003b) *Trade Union Membership*. Office for National Statistics, London: DTI.

Department of Trade and Industry (DTI) (2006) *The Information and Consultation of Employees Regulations 2004*. DTI Guidance (January 2006), Official Website: (<http://www.berr.gov.uk/files/file25934.pdf>).

Dickens, L., and Hall, M. (2003) 'Labour Law and Industrial Relations: A New Settlement', in Edwards, P. (ed.) *Industrial Relations: Theory and Practice*, 2nd Edition. Oxford: Blackwell, pp. 124-156.

Dietz, G., and Fortin, M. (2007) 'Trust and Justice in the Formation of Joint Consultative Committees', *The International Journal of Human Resource Management*, 18 (7): 1159-1181.

Directive (2002/14/EC) of the European Parliament and of the Council (11 March 2002): 'Establishing a General Framework for Informing and Consulting Employees in the European Community', *Official Journal of the European Communities*, Published on 23rd March 2002, L80/29-L80/33.

Dix, G., and Oxenbridge, S. (2003) *Information and Consultation at Work: From Challenges to Good Practice*. London: Advisory Conciliation and Arbitration Service (ACAS).

Docksey, C. (1986) 'Information and Consultation of Employees: The United Kingdom and the Vredeling Directive', *The Modern Law Review*, 49 (3): 281-313.

Doherty, M. (2008) 'Hard Law, Soft Edge? Information, Consultation and Partnership', *Employee Relations*, 30 (6): 608-622.

Dukes, R. (2007) 'The ICE Regulations: Pre-Existing Arrangements and Standard Provisions: A Warning to Employers (Recent Cases – Commentary)', *Industrial Law Journal*, 36 (3): 329-340.

Dundon, T., Curran, D., Maloney, M., and Ryan, P. (2003) *Organisational Change and Employee Information and Consultation*. Centre for Innovation and Structural Change (CISC), National University of Ireland, Galway, CISC Working Paper No 12, August 2003.

Dundon, T., Curran, D., Ryan, P., and Maloney, M. (2006) 'Conceptualising the Dynamics of Employee Information and Consultation: Evidence from the Republic of Ireland', *Industrial Relations Journal*, 37 (5): 492-512.

Dundon, T., and Gollan, P. J. (2007) 'Re-conceptualising Voice in the Non-union Workplace', *The International Journal of Human Resource Management*, 18 (7): 1182-1198.

Dundon, T., and Rollinson, D. (2004) *Employment Relations in Non-union Firms*. London: Routledge.

Dundon, T., and Wilkinson, A. (2009) 'Employee Participation', in Redman, T., and Wilkinson, A. (eds.) *Contemporary Human Resource Management*. Essex (England, UK): FT Prentice Hall, Pearson Education, pp. 405-425.

Dundon, T., Wilkinson, A., Marchington, M., and Ackers, P. (2004) 'The Meanings and Purpose of Employee Voice', *The International Journal of Human Resource Management*, 15 (6): 1149-1170.

Dundon, T., Wilkinson, A., Marchington, M., and Ackers, P. (2005) 'The Management of Voice in Non-Union Organisations: The Managers' Perspective', *Employee Relations*, 27 (3): 307-319.

Ebbinghaus, B. (1999) 'Does a European Social Model Exist and Can it Survive?', in Huemer, G., Mesch, M., and Traxler, F. (eds.) *The Role of Employers, Associations and Labour Unions in the EMU*. Aldershot: Ashgate, pp. 1-26.

EC (European Commission) (1988) 'The Social Dimension of the Internal Market', *Interservice Working Party*, SEC (88) 99.

Edwards, P. K. (1992) 'Industrial Conflict: Themes and Issues in Recent Research', *British Journal of Industrial Relations*, 30 (3): 361-404.

Edwards, P., Edwards, T., Ferner, A., Marginson, P., and Tregaskis, O., with Adam, D., and Meyer, M. (2007) 'Employment Practices of MNCs in Organisational Context: A Large-Scale Survey', *Report of Main Survey*, De Montfort University, King's College London, and Warwick Business School, June 2007.

Engineering Employers' Federation (EEF) (2005) *Information and Consultation: A Practical Guide to the Law*. London: Engineering Employers' Federation.

Eisenhardt, K. M. (1989) 'Building Theories from Case-Study Research', *Academy of Management Review*, 14 (4): 532-550.

Esping-Andersen, G. (1990) *The Three Worlds of Welfare Capitalism*. Princeton: Princeton University Press.

European Commission (2002) *Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 - Establishing a General Framework for Informing and Consulting Employees in the European Community*, Joint Declaration of the European Parliament, the Council and the Commission on Employee Representation.

EWCB (2002) 'Final Approval Given to EU Consultation Directive', *European Works Councils Bulletin*, no. 38, pp. 4-6.

Ewing, K. D. (2003) 'Labour Law and Industrial Relations', in Ackers, P., and Wilkinson, A. (eds.) *Understanding Work and Employment: Industrial Relations in Transition*. Oxford: Oxford University Press, pp. 138-160.

Ewing, K. D., and Truter, G. M. (2005) 'The Information and Consultation of Employees Regulations: Voluntarism's Bitter Legacy', *The Modern Law Review*, 68 (4): 626-641.

Farnham, D. (2000) *Employee Relations in Context*, 2nd Edition. London: CIPD.

Farnham, D., and Pimlott, J. (1995) *Understanding Industrial Relations (Academic Business Practitioner)*, 5th Edition. London: Casell Publishers.

Fetterman, D. (1989) *Ethnography: Step by Step*. London: Sage Publications.

Forth, J., and Millward, N. (2002) *The Growth of Direct Communication*. London: CIPD.

Follesdal A., Giorgi L., and Heuberger R. (2007) 'Envisioning European Solidarity between Welfare Ideologies and the European Social Agenda', *Innovation: The European Journal of Social Science Research*, 20 (1): 75-89.

Foulkes, F. (1980) *Personnel Policies in Large Non-union Companies*. Englewood Cliffs (New Jersey, USA): Prentice-Hall.

Fox, A. (1966) 'Industrial Sociology and Industrial Relations', *Royal Commission Research Paper No.3*, London: HMSO.

Freeman, R., and Medoff, J. (1984) *What Do Unions Do?* New York: Basic Books.

Freeman, R. B., and Rogers, J. (1999) *What Workers Want*. Ithaca: Cornell University Press.

Gall, G. (2004) 'British Employer Resistance to Trade Union Recognition', *Human Resource Management Journal*, 14 (2): 36-53.

Geary, J., and Roche, W. (2003) 'Workplace Partnership and the Displaced Activist Thesis', *Industrial Relations Journal*, 34 (1): 32-51.

Geary, J., and Roche, W. (2005) 'The Future of Employee Information and Consultation in Ireland', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 170-199.

Geertz, C. (1973) *The Interpretation of Cultures*. New York: Basic Books.

Gennard J., and Judge, G. (2002) *Employee Relations*, 3rd Edition. London: CIPD.

Gill, C., Gold, M., and Cressey, P. (1999) 'Social Europe: National Initiatives and Responses', *Industrial Relations Journal*, 30 (4): 313-329.

Gilman, M., and Marginson, P. (2002) 'Negotiating European Works Councils: Contours of Constrained Choice', *Industrial Relations Journal*, 33 (1): 36-51.

Gold, M. (1992) 'Social Policy: The UK and Maastricht', *National Institute Economic Review*, 139 (1): 95-103.

Gold, M. (1993) 'Overview of the Social Dimension', in Gold, M. (ed.) *The Social Dimension: Employment Policy in the European Community*, 1st Edition. London: Palgrave Macmillan, pp. 10-40.

Gold, M. (1998) 'Social Partnership at the EU Level: Initiatives, Problems and Implications for Member States', in Hine, D., and Kassim, H. (eds.) *Beyond the Market: The EU and National Social Policy*, The State and the European Union Series. London and New York: Routledge, pp. 107-133.

Gold, M. (2009) 'Overview of EU Employment Policy', in Gold, M. (ed.), *Employment Policy in the European Union: Origins, Themes and Prospects*. Hampshire (UK) and New York (USA): Palgrave Macmillan, pp. 1-26.

Gold, M., Cressey, P., and Gill, C. (2000) 'Employment, Employment, Employment: Is Europe Working?', *Industrial Relations Journal*, 31 (4): 275-290.

Gold, M., Cressey, P., and Leonard, E. (2007) 'Whatever Happened to Social Dialogue? From Partnership to Managerialism in the EU Employment Agenda', *European Journal of Industrial Relations*, 13 (7): 7-25.

Gold, M., and Hall, M. (1990) 'Legal Regulation and the Practice of Employee Participation in the European Community', Dublin: European Foundation for the Improvement of Living and Working Conditions.

Gold, M., and Hall, M. (1994) 'Statutory European Works Councils: The Final Countdown?', *Industrial Relations Journal*, 25 (3): 177-186.

Gold, M., and Schwimbersky, S. (2008) 'The European Company Statute: Implications for Industrial Relations in the European Union', *European Journal of Industrial Relations*, 14 (1): 49-67.

Gollan, P. J. (2000) 'Non-Union Forms of Employee Representation in the United Kingdom and Australia', in Kaufman, B. E., and Taras, D. G., (eds.) *Non-Union Employee Representation: History, Contemporary Practice, and Policy*. Armonk, New York: M. E. Sharpe, pp. 410-449.

Gollan, P. J. (2002) 'So what's the News? Management Strategies towards Non-union Employee Representation at News International', *Industrial Relations Journal*, 33 (4): 316-331.

Gollan, P. J. (2003) 'All Talk but No Voice – Employee Voice at the Eurotunnel Call Centre', *Economic and Industrial Democracy Journal*, 24 (4): 509-541.

Gollan, P. J. (2005) 'Silent Voices: Representation at the Eurotunnel Call Centre', *Employee Relations*, 34 (4): 423-450.

Gollan, P. J. (2006a) 'Editorial: Consultation and non-union Employee Representation', *Industrial Relations Journal*, 37 (5): 428-437.

Gollan, P. J. (2006b) 'Twin Tracks – Employee Representation at Eurotunnel Revisited', *Industrial Relations*, 45 (4): 606-649.

Gollan, P. J., and Perkins, S. J. (2007) 'Conference Review - Voice and Value: Dilemmas of Workforce "Incorporation"? (Themes Emerging at a Conference Held at the London School of Economics on 31 March 2006)', *Human Resource Management Journal*, 17 (1): 94-96.

Gollan, P. J., and Perkins, S. J. (2009) 'Conference Review – Voice and Value: Pandora's ICE Box and Big Ideas Around Employer Branding (Themes Emerging at a Conference Held at the London School of Economics on 9 March 2007 and 14 March 2008)', *Human Resource Management Journal*, 19 (2): 211-215.

Gollan, P. J., Poutsma, E., and Veersma, U. (2006) 'Editors' Introduction: New Roads in Organisational Participation?', *Industrial Relations*, 45 (4): 499-512.

Gollan, P. J., and Wilkinson, A. (2007a) 'Contemporary Developments in Information and Consultation', *The International Journal of Human Resource Management*, 18 (7): 1133-1144.

Gollan, P. J., and Wilkinson, A. (2007b) 'Implications of the EU Information and Consultation Directive and the Regulations in the UK – Prospects for the Future of Employee Representation', *The International Journal of Human Resource Management*, 18 (7): 1145-1158.

Goodman, J., Earnshaw, J., Marchington, M., and Harrison, R. (1998) 'Unfair Dismissal Cases, Disciplinary Procedures, Recruitment Methods and Management Style', *Employee Relations*, 20 (6): 536-550.

Gordon-Brown, I. (1972) *Participation in Industry*. Publisher: Industrial Co-Partnership Association.

Gospel, H., Lockwood, G., and Willman, P. (2003) 'A British Dilemma: Disclosure of Information for Collective Bargaining and Joint Consultation', *Comparative Labour Law and Policy Journal*, 22 (2): 101-123.

Gospel, H., and Willman, P. (2003) 'Dilemmas in Worker Representation – Information, Consultation, and Negotiation', in Gospel, H., and Wood, S. (eds.) *Representing Workers: Trade Union Recognition and Membership in Britain*. London: Routledge, pp. 144-165.

Gospel, H., and Willman, P. (2005) 'Changing Patterns of Employee Voice', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 126-158.

Grahl, J., and Teague, P. (1997) 'Is the European Social Model Fragmenting?', *New Political Economy*, 2 (3): 405-426.

Grainger, H., and Holt, H. (2005) *Trade Union Membership 2005*. London: DTI.

Guest, D., and Peccei, R. (1998) *The Partnership Company: Benchmarks for the Future*. London: Involvement and Participation Association.

Gunningle, P., Heraty, N., and Morley, M. (2002) *Human Resource Management in Ireland*, 2nd Edition. Dublin: Gill and Macmillan.

Hakim, C. (1992) *Research Design: Strategies and Choices in the Design of Social Research*. London: Routledge.

Hall, M. (1992) 'Behind the European Works Councils Directive: The European Commission's Legislative Strategy', *British Journal of Industrial Relations*, 30 (4): 547-566.

Hall, M. (2003) 'Draft Information and Consultation Legislation Published', *European Industrial Relations Observatory*,
<http://www.eiro.eurofound.eu/int/2003/07/feature/uk0307106f.html>

Hall, M. (2004) 'Anticipating the Information and Consultation Regulations: Evidence from Four Companies', Paper Presented at British Universities Industrial Relations Association Annual Conference.

Hall, M. (2005a) 'How are Employers and Unions Responding to the Information and Consultation of Employees Regulations?', *Warwick Papers in Industrial Relations*, Number 77, Industrial Relations Research Unit (IRRU), Warwick Business School, University of Warwick, Coventry, England, UK.

Hall, M. (2005b) 'Assessing the Information and Consultation of Employees Regulations', *Industrial Law Journal*, 34 (2): 103-126.

Hall, M. (2005c) 'Using a Multi-level Consultation Framework: The Case of B&Q', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in association with The Open University Business School), pp. 240-253.

Hall, M. (2006) 'A Cool Response to the ICE Regulations? Employer and Trade Union Approaches to the New Legal Framework for Information and Consultation', *Industrial Relations Journal*, 37 (5): 456-472.

Hall, M., Broughton, A., Carley, M., and Sisson, K. (2002) *Work Councils for the UK? Assessing the Impact of the EU Employee Consultation Directive*. London: IRS/IRRU.

Hall, M., Carley, M., Gold, M., Marginson, P., and Sisson, K. (1995) *European Works Councils: Planning for the Directive*. London: IRS.

Hall, M., Hutchinson, S., Parker, J., Purcell, J., and Terry, M. (2007) 'Implementing Information and Consultation: Early Experience under the ICE Regulations',

Employment Relations Research Series No. 88, Department for Business Enterprise and Regulatory Reform (in Partnership with ACAS and CIPD), September 2007.

Hall, M., Hutchison, S., Parker, J., Purcell, J., and Terry, M. (2008) 'Implementing Information and Consultation in Medium-Sized Organisations', *Employment Relations Research Series No. 97*, Department for Business Enterprise and Regulatory Reform (in Partnership with ACAS and CIPD), September 2008.

Hall, M., Hutchison, S., Purcell, J., Terry, M., and Parker, J. (2009a) 'Implementing Information and Consultation: Evidence from Longitudinal Case Studies in Organisations with 150 or More Employees', *Employment Relations Research Series No. 105*, Department for Business Innovation and Skills (in Partnership with ACAS and CIPD), December 2009.

Hall, M., Hutchison, S., Purcell, J., Terry, M., and Parker, J. (2009b) 'Implementing Information and Consultation: Developments in Medium-Sized Organisations', *Employment Relations Research Series No. 106*, Department for Business Innovation and Skills (in Partnership with ACAS and CIPD), December 2009.

Hall, M., and Marginson, P. (2005) 'Trojan Horses or Paper Tigers? Assessing the Significance of European Works Councils', in Harley, B., Hyman, J., and Thompson, P. (eds.) *Participation and Democracy at Work: Essays in Honour of Harvie Ramsay*. Hampshire and New York: Palgrave Macmillan, pp. 204-221.

Hall, M., and Terry, M. (2004) "The Emerging System of Statutory Worker Representation", in Healy G., Heery E., Taylor P., and Brown W. (eds.) *The Future of Worker Representation*. Basingstoke: Palgrave Macmillan, pp. 207-228.

Hall, P. A., and Soskice, D. (2001) *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*. Oxford: Oxford University Press.

Harcourt, M., Wood, G., and Harcourt, S. (2004) 'Do Unions Affect Employer Compliance with the Law?', *British Journal of Industrial Relations*, 42 (3): 527-541.

Hardy, S., and Adnett, N. (2006) 'Breaking the ICE: Workplace Democracy in a Modernised Social Europe', *The International Journal of Human Resource Management*, 17 (6): 1021-1031.

Harney, B., and Dundon, T. (2006) 'Capturing Complexity: Developing an Integrated Approach to Analysing HRM in SMEs', *Human Resource Management Journal*, 16 (1): 48-73.

Hartley, J. F. (1994) 'Case-studies in Organisational Research', in Cassell, C., and Symon, G. (eds.) *Qualitative Methods in Organisational Research: A Practical Guide*. London: Sage Publications, pp. 208-226.

Haynes, P., and Allen, M. (2001) 'Partnership as a Union Strategy: A Preliminary Evaluation', *Employee Relations*, 23 (2): 164-187.

Heery, E. (2002) 'Partnership versus Organising: Alternative Futures for British Trade Unionism', *Industrial Relations Journal*, 33 (1): 20-35.

Heery, E., Healy, G., and Taylor, P. (2004) 'Representation at Work: Themes and Issues', in Healy, G., Heery, E., Taylor, P., and Brown, W. (eds.) *The Future of Worker Representation*. Basingstoke: Palgrave Macmillan, pp. 1-36.

Higgins, P., and Croucher, R. (2008) 'Employment Relations', in Muller-Camen, M., Croucher, R., and Leigh, S. (eds.) *Human Resource Management: A Case-Study Approach*. London: Chartered Institute of Personnel and Development, pp. 317-337.

HMSO (1989) *People and Companies: Employee Involvement in Britain*. UK Government Publication, Technical Communications Publishing Ltd.

Hofstede, G. (2001) *Culture's Consequences: Comparing Values, Behaviours, Institutions, and Organisations Across Nations*, 2nd Edition. Thousand Oaks, Sage Publications.

Hope-Hailey, V., Farndale, E., and Truss, C. (2005) 'The HR Department's Role in Organisational Performance', *Human Resource Management Journal*, 15 (3): 49-66.

House, R. J., Hanges, P. J., Javidan, M., Dorfman, P. W., and Gupta, V. (2004) *Culture, Leadership and Organisations: the GLOBE Study of 62 Societies*. New York (USA): Sage Publications.

Houses of Parliament (2004) *The Information and Consultation of Employees Regulations*. London: Houses of Parliament.

Hussey, J., and Hussey, R. (1997) *Business Research: A Practical Guide for the Undergraduate and Postgraduate Students*. Hampshire (England, UK): Palgrave Macmillan.

Hyman, R. (1987) 'Strategy or Structure? Capital, Labour and Control', *Work, Employment and Society*, 1 (1): 25-55.

Hyman, R. (2003) 'The Historical Evolution of British Industrial Relations', in Edwards, P. (ed.) *Industrial Relations: Theory and Practice*, 2nd Edition. Blackwell Publishing Ltd, pp. 37-57.

Hyman, J., and Mason, R. (1995) *Managing Employee Involvement and Participation*. London: Sage Publications.

Hyman, J., and Summers, J. (2007) 'Work and Life: Can Employee Representation Influence Balance?', *Employee Relations*, 29 (4): 367-384.

IDS (2005) *Information and Consultation Arrangements*, IDS HR Study 790. London: Incomes Data Services.

IELL (1980) *International Encyclopaedia for Labour Law and Industrial Relations*. Great Britain.

Involvement and Participation Association (IPA) (1992) *Towards Industrial Partnership: A New Approach to Relations at Work*. London: IPA Publishing.

Involvement and Participation Association (IPA) (2002) *Towards the High Performance Workplace*. London: IPA Publishing.

IRS (2005) 'High on the Agenda: Employee Information and Consultation', *IRS Employment Review*, Volume 833, pp. 8-16.

Jirjahn, U., and Smith, S. C. (2006) 'What Factors Lead Management to Support or Oppose Employee Participation – With and Without Works Councils? Hypotheses and Evidence from Germany', *Industrial Relations*, 45 (4): 650-680.

Jones, B., and Cressey, P. (1995) 'Introduction – "Europeanisation": Motor or Mirage for Employment Systems', in Cressey, P., and Jones, B. (eds.) *Work and Employment in Europe: A New Convergence?* Routledge Studies in the European Economy, London and New York: Routledge, pp. 1-27.

Johhstone, S., Wilkinson, A., and Ackers, P. (2004) 'Partnership Paradoxes: A Case-Study of an Energy Company', *Employee Relations*, 26 (4): 353-376.

Kahn-Freund, O. (1959) 'Labour Law', in Ginsberg, M. (ed.) *Law and Opinion in England in the 20th Century*. London: Stevens, pp. 215-263.

Kaufman, B. E. (2003) 'The Organisation of Economic Activity: Insights From the Institutional Theory of John R. Commons', *Journal of Economic Behaviour and Organisation*, 52 (1): 71-96.

Keller, B. (2002) 'The European Company Statute: Employee Involvement – and Beyond', *Industrial Relations Journal*, 33 (5): 424-445.

Keller, B., and Sorries, B. (1999) 'The New European Social Dialogue: Old Wine in New Bottles?', *Journal of European Social Policy*, 9 (2): 111-125

Kelly, J. (1996) 'Works Councils: Union Advance or Marginalisation?', in McColgan, A. (ed.) *The Future of Labour Law*. London: Mansell, pp. 46-63.

Kelly, J. (1998) *Rethinking Industrial Relations: Mobilisation, Collectivism and Long Waves*. London: Routledge.

Kelly, J. (2005) 'Social Partnership Agreements in Britain', in M. Stuart and M. Martinez Lucio (eds.) *Partnership and Modernisation in Employment Relations*. London: Routledge, pp. 188-210.

Kersley, B., Alpin, C., Forth, J., Bryson, A., Bewley, H., Dix, G., and Oxenbridge, S. (2006) *Inside the Workplace: Findings from the 2004 Workplace Employment Relations Survey*. London and New York: Routledge.

Kochan, T., Katz, H., and McKenzie, R. (1986) *The Transformation of American Industrial Relations*. New York: Basic Books.

Kostova, T., and Roth, K. (2002) 'Adoption of an Organisational Practice by Subsidiaries of Multinational Corporations: Institutional and Relational Effects', *Academy of Management Journal*, 45 (1): 215-233.

Kuhn, T. S. (1962) *The Structure of Scientific Revolutions*. Chicago: University of Chicago Press.

Labour Research Department (LRD) (1995) *A Trade Unionist's Guide to European Works Councils*. London: Trade Union Congress.

Labour Research Department (LRD) (2006) 'Information and Consultation Regulations Make Their Mark', *Workplace Report*, April 2006, pp. 15-17.

Lamnek, S. (1988) *Qualitative Sozialforschung*. Band 1: *Methodologie*; Band 2: *Methoden und Techniken*. Munich (Germany): Psychologie Verlags Union.

Linklaters (2005) *Informing and Consulting: Information and Consultation of Employees Regulations 2004*. London: Linklaters.

Lloyd, C. (2001) 'What do Employee Councils do? The Impact of Non-Union Forms of Representation on Trade Union Organisation', *Industrial Relations Journal*, 32 (4): 313-327.

Lorber, P. (2003) 'National Works Councils: Opening the Door on a Whole New Era in United Kingdom Employment Relations', *The International Journal of Comparative Labour Law and Industrial Relations*, 19 (3): 297-319.

Lorber, P. (2006) 'Implementing the Information and Consultation Directive in Great Britain: A New Voice at Work', *The International Journal of Comparative Labour Law and Industrial Relations*, 22 (2): 231-258.

Lourie, J. (1998) *Fairness at Work*. Cm 3968, Business and Transport Section, House of Commons Library, Research Paper 98/99, 17th November 1998, Official Website: (<http://www.parliament.uk/commons/lib/research/rp98/rp98-099.pdf>).

Marchington, M. (1989) 'Joint Consultation in Practice', in Sisson, K. (ed.) *Personnel Management in Britain*. Oxford: Blackwell Publishing, pp. 378-402.

Marchington, M. (1994) 'The Dynamics of Joint Consultation', in Sisson, K. (ed.) *Personnel Management in Britain*, 2nd Edition. Oxford: Blackwell Publishing, pp. 662-693.

Marchington, M. (2000) 'Management-Union Partnerships in Britain: Who Gains What?', *Paper Presented at the Department of Management and Employment Relations Seminar Series*, University of Auckland, New Zealand.

Marchington, M. (2005) 'Employee Involvement: Patterns and Explanations', in Harley, B., Hyman, J., and Thompson, P. (eds.) *Participation and Democracy at Work: Essays in Honour of Harvie Ramsay*. Hampshire (UK) and New York (USA): Palgrave Macmillan, pp. 20-37.

Marchington, M., and Armstrong, R. (1986) 'The Nature of the New Joint Consultation', *Industrial Relations Journal*, 17 (2): 158-170.

Marchington, M., Goodman, J., and Berridge, J. (2004) 'Employment Relations in Britain', in Bamber, G. J., Lansbury, R. D., and Wailes, N. (eds.) *International and Comparative Employment Relations: Globalisation and the Developed Market Economies*, 4th Edition. Reprinted in 2005, London: Sage Publications, pp. 36-66.

Marchington, M., Goodman, J., Wilkinson, A., and Ackers, P. (1992) *New Developments in Employee Involvement*. Employment Department Research Paper Series No 2, London: HMSO.

Marchington, A., and Wilkinson, A. (2005a) *Human Resource Management at Work: People Management and Development*, 3rd Edition. London: Chartered Institute of Personnel and Development (CIPD).

Marchington, A., and Wilkinson, A. (2005b) 'Direct Participation and Involvement', in Bach, S. (ed.) *Managing Human Resources*, 4th Edition. Oxford: Blackwell Publishing, pp. 398-423.

Marchington, M., Wilkinson, A., Ackers, P., and Dundon, T. (2001) *Management Choice and Employee Voice*. Chartered Institute of Personnel and Development Research Report, London: CIPD.

Marginson, P., Gilman, M., Jacobi, O., and Krieger, H. (1998) 'Negotiating European Works Councils: An Analysis of Agreements Under Article 13', Report Prepared for the European Foundation for the Improvement of Living and Working Conditions and the European Commission, Luxembourg: Office for Official Publications of the European Communities.

Marginson, P., Hall, M., Hoffman, A., and Muller, T. (2004) 'The Impact of European Works Councils on Management Decision-Making in UK and US-Based Multinationals: A Case Study Comparison', *British Journal of Industrial Relations*, 42 (2): 209-233.

Marginson, P., and Sisson, K. (1994) 'The Structure of Transnational Capital in Europe: The Emerging Euro-Company and its Implications for Industrial Relations', in Hyman, R., and Ferner, A (eds.) *New Frontiers in European Industrial Relations*. Oxford: Blackwell Publishing, pp. 15-51.

Marginson, P., and Sisson, K. (2004 & 2006) *European Integration and Industrial Relations: Multi-level Governance in the Making*. (Originally Published in 2004 and Re-printed in 2006), Hampshire (England, UK): Palgrave Macmillan.

Marsden, D. (2007) 'Individual Employee Voice: Renegotiation and Performance Management in Public Services', *The International Journal of Human Resource Management*, 18 (7): 1263-1278.

Marsh, A. (1979) *Concise Encyclopaedia of Industrial Relations*. Oxford and Westmead: Gower Press.

Maylor, H., and Blackmon, K. (2005) *Researching Business and Management*. Hampshire (UK) and New York (USA): Palgrave Macmillan.

McCabe, D., and Lewin, D. (1992) 'Employee Voice: A Human Resource Management Perspective', *California Management Review*, 34 (3): 112-123.

McGlynn, C. (1995) 'Recent Legislation - European Work Councils: Towards Industrial Democracy?', *Industrial Law Journal*, 24 (1): 78-84.

McKay, S., and Moore, S. (2004) 'Union Recognition Agreements in the Shadow of the Law', *Industrial Law Journal*, 33 (4): 374-376.

Milner, S. (2001) 'Globalisation and Employment in France: Between Flexibility and Protection?', *Modern and Contemporary France*, 9 (3): 327-337.

Milner, S. (2005) 'Protection, Reform and Political Will: France and the European Social Model', in Drake, H. (ed.) *French Relations with the European Union*. 'Europe and the Nation State' Series, New York (USA): Routledge, pp. 105-123.

Millward, N., Bryson, A., and Forth, J. (2000) *All Change at Work: British Employment Relations 1980-1998 as Portrayed by the Workplace Industrial Relations Survey Series*. London: Routledge.

O'Kelly, K. P. (1995) 'The Future of Employee Relations Within European Enterprises', in Cressey, P., and Jones, B. (eds.) *Work and Employment in Europe: A New Convergence?* Routledge Studies in the European Economy, London and New York: Routledge, pp. 69-91.

Oppenheim, A. N. (1992) *Questionnaire Design, Interviewing and Attitude Measurement*. London and Washington: Pinter.

Oxenbridge, S., and Brown, W. (2002) 'The Two Faces of Partnership? An Assessment of Partnership and Co-Operative Employer/Trade Union Relationships', *Employee Relations*, 24 (3): 262-277.

Oxenbridge, S., and Brown, W. (2004) 'Achieving a New Equilibrium? The Stability of Cooperative Employer-Union Relationships', *Industrial Relations Journal*, 35 (5): 388-402.

Pateman, C. (1970) *Participation and Democratic Theory*. Cambridge (England, UK): Cambridge University Press.

Pateman, C. (1975) 'A Contribution to the Political Theory of Organisational Democracy', *Administration and Society*, 7 (1): 5-26.

Pateman, C. (1983) 'Some Reflections on Participation and Democratic Theory', in Crouch, C., and Heller, F. A. (eds.) *International Yearbook of Organisational Democracy for the Study of Participation, Co-operation and Power*, Volume 1, *Organisational Democracy and Political Processes*. Chichester (England, UK): Wiley Publications.

Peccei, P., Bewley, H., Gospel, H., and Willman, P. (2007) 'Patterns of Information Disclosure and Joint Consultation in Great Britain – Determinants and Outcomes',

Employment Relations Research Series No. 73, DTI (in Collaboration with EMAR), WERS 2004 Grants Fund, February 2007.

Peccei, R., Bewley, H., Gospel, H., and Willman, P. (2008) 'Look Who's Talking: Sources of Variation in Information Disclosure in the UK', *British Journal of Industrial Relations*, 46 (2): 340-366.

Pendleton, A., and Deakin, S. (2007) 'Corporate Governance and Workplace Employment Relations: The Potential of WERS 2004', *Industrial Relations Journal*, 38 (4): 338-355.

Perrett, R. (2007) 'Worker Voice in the Context of the Re-regulation of Employment: Employer Tactics and Statutory Union Recognition in the UK', *Work, Employment and Society*, 21 (4): 617-634.

Poole, M., and Mansfield, R. (1992) 'Managers' Attitudes to Human Resource Management: Rhetoric and Reality', in Blyton, P., and Turnbull, P. (eds.) *Reassessing Human Resource Management*. London: Sage Publications, pp. 200-214.

Provis, C. (1996) 'Unitarism, Pluralism, Interests and Values', *British Journal of Industrial Relations*, 34 (4): 473-495.

Purcell, J. (1991) 'The Rediscovery of the Management Prerogative: The Management of Labour Relations in the 1980s', *Oxford Review of Economic Policy*, 7 (1): 33-43.

Purcell, J. (1993) 'The End of Institutional Industrial Relations', *Political Quarterly*, 64 (1): 6-23.

Purcell, J. (1995) 'Ideology and the End of Institutional Industrial Relations: Evidence from the UK', in Crouch, C., and Traxler, F. (eds.) *Organised Industrial Relations in Europe: What Future?* Aldershot: Avebury, pp. 101-119.

Purcell, J., and Ahlstrand, B. (1994) *Human Resource Management in the Multi-Divisional Company*. Oxford (England, UK) and New York (USA): Oxford University Press.

Purcell, J., Kinnie, N., Hutchinson, S., Rayton, B., and Swart, J. (2003) *Understanding the People and Performance Link: Unlocking the Black Box*. Chartered Institute of Personnel and Development Research Report, London: CIPD Publishing.

Pyman, A., Cooper, B., Teicher, J., and Holland, P. (2006) 'A Comparison of the Effectiveness of Employee Voice Mechanisms in Australia', *Industrial Relations Journal*, 37 (5): 543-559.

Ramsey, H. E. (1977) 'Cycles of Control: Worker Participation in Sociological and Historical Perspective', *Sociology*, 11 (3): 481-506.

Ramsey, H. E. (1980) 'Phantom Participation: Patterns of Power and Conflict', *Industrial Relations Journal*, 11 (3): 46-59.

Ramsey, H. E. (1997) 'Fools Gold? European Works Councils and Workplace Democracy', *Industrial Relations Journal*, 28 (4): 314-322.

Redfern, D. (2007) 'An Analysis of the Role of European Works Councils in British Workplaces', *Employee Relations*, 29 (3): 292-305.

Regalia, I. (1995) *Humanise Work and Increase Profitability? Direct Participation in Organisational Change Viewed by the Social Partners in Europe*. Luxembourg: Office for the Official Publications of the European Communities.

Rhodes, M. (1997) 'The Welfare State: Internal Challenges, External Constraints', in Rhodes, M., Heywood, P., and Wright, V. (eds.) *Developments in West European Politics*. Hampshire (England, UK): Palgrave Macmillan, pp. 57-74.

Richardson, M., Danford, A., Stewart, P., and Pulignano, V. (2010) 'Employee Participation and Involvement: Experiences of Aerospace and Automobile Workers in the UK and Italy', *European Journal of Industrial Relations*, 16 (1): 21-37.

Riordan, C. M., Vandenberg, R. J., and Richardson, H. A. (2005) 'Employee Involvement Climate and Organisational Effectiveness', *Human Resource Management*, 44 (4): 471-488.

Robson, C. (1993) *Real World Research*, Oxford: Blackwell Publishing.

Roche, W. (1999) 'In Search of Commitment-Orientated Human Resource Management Practices and the Conditions that Sustain Them', *Journal of Management Studies*, 36 (5): 653-678.

Roche, W. (2000) 'The End of New Industrial Relations?', *European Journal of Industrial Relations*, 6 (3): 261-282.

Rogers, J., and Streeck, W. (1995) 'The Study of Works Councils: Concepts and Problems', in Rogers, J., and Streeck, W. (eds.) *Works Councils*. Chicago: Chicago University Press.

Roper, I., Cunningham, I., and James, P. (2003) 'Promoting Family-Friendly Policies: Is the Basis of the Government's Ethical Standpoint Viable?', *Personnel Review*, 32 (2): 211-230.

Rose, E. (2008) *Employment Relations*, 3rd Edition. Essex (England, UK): Financial Times - Prentice Hall.

Sako, M. (1998) 'The Nature and Impact of Employee "Voice" in the European Car Components Industry', *Human Resource Management Journal*, 8 (2): 5-13.

Sarantakos, S. (1998) *Social Research*, 2nd Edition. Hampshire (England, UK): Palgrave Macmillan.

Scharpf, F. (2000) 'The Viability of Advanced Welfare States in the International Economy: Vulnerabilities and Options', *Journal of European Public Policy*, 7 (2): 190-228.

Scharpf, F. (2002) 'The European Social Model: Coping with the Challenges of Diversity', *Journal of Common Market Studies*, 40 (4): 645-670.

Schomann, I., Clauwaert, S., and Warneck, W. (2006) *Information and Consultation in the European Community: Implementation Report of Directive 2002/14/EC*. European Trade Union Institute for Research, Education, and Health and Safety (ETUI-REHS), Publisher: ETUI-REHS (Brussels, 2006).

Scott, R. (2002) 'The UK and the Information and Consultation Directive: Transposition or Transformation?', BUIRA (London) Information and Consultation Seminar, 31st May, London.

Scott, R., and Shore, A. (1979) *Why Sociology Does Not Apply: A Study of the Use of Sociology in Public Policy*. New York: Elsevier.

Shackleton, K. (1996) 'The Social Policy of the E.C.: Reporting Information to Employees, a UK Perspective Historical Analysis and Prognosis', *Estudos Do GEMF*, No 5, Faculdade de Economia, Universidade de Coimbra, Portugal.

Silverman, D. (2001) *Interpreting Qualitative Data: Methods for Analysing Talk, Text and Interaction*, 2nd Edition. London (England, UK): Sage Publications.

Sisson, K. (2002) 'The Information and Consultation Directive: Unnecessary "Regulation" or an Opportunity to Promote "Partnership"?', *Warwick Papers in Industrial Relations*, No: 67, Industrial Relations Research Unit (IRRU), Warwick Business School, University of Warwick, Coventry, England, UK.

Sisson, K. (2005) 'Personnel Management and European Integration: A Case of Indelible Imprint?', in Bach, S. (ed.) *Managing Human Resources*, 4th Edition. Oxford (England, UK): Blackwell Publishing, pp. 45-67.

Sisson, M., and Marginson, P. (2003) 'Management: Systems, Structures and Strategy', in Edwards, P. (ed.) *Industrial Relations: Theory and Practice*, 2nd Edition. Oxford (England, UK): Blackwell Publishing, pp. 157-188.

Smith, J. K. (1983) 'Quantitative Versus Qualitative Research: An Attempt to Classify the Issue', *Educational Researcher*, 12 (3): 6-13.

Smith, P., and Morton, G. (2001) 'New Labour's Reform of Britain's Employment Law: The Devil is not in the Detail but in the Values and Policy Too', *British Journal of Industrial Relations*, 39 (1): 119-138.

Stebbins, R. A. (1992) 'Concatenated Exploration: Notes on a Neglected Type of Longitudinal Research', *Quality and Quantity*, 26 (4): 435-442.

Stirling, J., and Tully, B. (2004) 'Power, Process, and Practice: Communications in European Works Councils', *European Journal of Industrial Relations*, 10 (1): 73-89.

Storey, J. (1992) *Developments in the Management of Human Resources*, Oxford: Blackwell.

Storey, J. (2005) 'Employee Information and Consultation: An Overview of Theory and Practice', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 2-18.

Streeck, W. (1997) 'Citizenship under Regime Competition: The Case of the European Works Councils', *European Integration online Papers (EIoP)*, Volume 1, no 005, Date of Publication in the EIOP: 10th April 1997, Online Source: (<http://eiop.or.at/eiop/texte/1997-005a.htm>).

Stuart, M., and Martinez-Lucio, M. (2005) 'Partnership and Modernisation in Employment Relations: An Introduction', in Stuart, M., and Martinez-Lucio, M. (eds.) *Partnership and Modernisation in Employment Relations*. London: Routledge, pp. 1-22.

Supiot, A. (2000) 'The Dogmatic Foundations of the Market', *Industrial Law Journal*, 29 (4): 321-346

Tailby, S., Richardson, M., Upchurch, M., Danford, A., and Stewart, P. (2007) 'Partnership with and without Trade Unions in the UK Financial Services: Filling or Fuelling the Representation Gap?', *Industrial Relations Journal*, 38 (3): 210-228.

Tailby, S., and Winchester, D. (2005) 'Management and Trade Unions: Partnership at Work?', in Bach, S. (ed.) *Managing Human Resources*, 4th Edition. Oxford: Blackwell Publishing, pp. 424-451.

Taras, D. G. (2000) 'Portrait of Non-Union Employee Representation in Canada: History, Law and Contemporary Plans', in Kaufman B., and Taras, D. (ed.) *Non-Union Employee Representation: History, Contemporary Practice, and Policy*. New York: M. E. Sharpe, pp. 121-146.

Taras, D. G., and Kaufman, B. E. (2006) 'Non-union Employee Representation in North America: Diversity, Controversy and Uncertain Future', *Industrial Relations Journal*, 37 (5): 513-542.

Taylor, R. (1994) *The Future of the Trade Unions*. London: Andre Deutch (Carlton Publishing Group).

Taylor, S. J., and Bogdan, R. (1984) *Introduction to Qualitative Research Methods: The Search for Meanings*, 2nd Edition. Chichester (England, UK) and New York (USA): Wiley.

Terry, M. A. (1994) 'Workplace Unionism: Redefining Structures and Objectives', in Hyman R., and Ferner, A. (ed.) *New Frontiers in European Industrial Relations*. Oxford: Blackwell Publishing, pp. 223-249.

Terry, M. A. (1999) 'Systems of Collective Employee Representation in Non-Union Firms in the UK', *Industrial Relations Journal*, 30 (1): 16-30.

Terry, M. A. (2003a) 'Partnership and the Future of Trade Unions', *Economic and Industrial Democracy*, 24 (4): 485-507.

Terry, M. A. (2003b) 'Can "Partnership" Reverse the Decline of British Trade Unions?', *Work, Employment and Society*, 17 (3): 459-472.

Terzi, K. A. (2002) 'Mergers, Customers Service and Integration: A Case in Insurance', *PhD Thesis*, University of Bath, England, UK.

Thelen, K. (2001) 'Varieties of Labour Politics in the Developed Democracies', in Hall, P. A., and Soskice, D. (eds.) *Varieties of Capitalism: The Institutional Foundations of Competitive Advantage*. Oxford and New York: Oxford University Press, pp. 71-103.

Thompson, P. (2003) 'Disconnected Capitalism', *Work, Employment and Society*, 17 (2): 359-378.

Threlfall, M. (2007) 'The Social Dimension of the European Union: Innovative Methods for Advancing Integration', *Global Social Policy*, 7 (3): 271-293.

Torrington, D., Hall, L., and Taylor, S. (2005) *Human Resource Management*, 6th Edition. Essex (England, UK): Prentice Hall - Financial Times, (Pearson Education).

Towers, B. (1997) *The Representation Gap: Change and Reform in the British and American Workplace*. Oxford (England, UK): Oxford University Press.

Trade Union Congress (TUC) (1997) *Meetings on European Multinationals: The Experience So Far*. London: TUC.

Trades Union Congress (TUC) (2004) *Informed, Consulted, Organised*. London: TUC.

Traxler, F., Blaschke, S., and Kittel, B. (2001) *National Labour Relations in Internationalised Markets*. Oxford (England, UK): Oxford University Press.

Trimming, A. R. (2007) 'European Works Councils and the Dark Side of Managing Worker Voice', *Human Resource Management Journal*, 17 (3): 248-264.

Truter, G. M. (2003) *Implementing the Information and Consultation Directive in the UK: Lessons from Germany*. London: Institute for Employment Rights.

Undy, R. (1999) 'Annual Review Article: New Labour's "Industrial Relations Settlement": The Third Way?', *British Journal of Industrial Relations*, 37 (2): 315-336.

UNITE the Union (2007) *The Information and Consultation of Employees Regulations 2004 (The ICE Regulations)*. Guidance for Unite Amicus Section Officers and Workplace Representatives, (1st Printing: June 2007), Published by Unite Amicus Section, (<http://www.amicustheunion.org/pdf/ICERegsJuly2007.pdf>).

Upchurch, M., Richardson, M., Tailby, S., Danford, A., and Stewart, P. (2006) 'Employee Representation and Partnership in the Non-Union Sector: A Paradox of Intention?', *Human Resource Management Journal*, 16 (4): 393-410.

USDAW (2006) *The Information and Consultation of Employees Regulations*. (Published on: 10th May 2006), (http://www.usdaw.org.uk/getactive/resource_library/files/RLFEmpRegs/EmpRegsRsRep.pdf).

Vaa Maanen, J. (1979) 'Reclaiming Qualitative Methods for Organisational Research: A Preface', *Administrative Science Quarterly*, 24 (4): 520-526.

Veale, S. (2005) 'Information and Consultation: A TUC Perspective on the Key Issues', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 21-28.

Von Wright, G. H. (1993) 'Two Traditions', in Hammersley, M. (ed.) *Social Research: Philosophy, Politics and Practice*, 1st Edition. London: Sage Publications, pp. 9-13.

Waddington, J. (2001) 'What do EWC Representatives Think? Views from Five Countries', *European Works Council Bulletin*, no. 33, pp. 12-16.

Wall, T. D., and Wood, S. J. (2005) 'The Romance of Human Resource Management and Business Performance, and the Case for Big Science', *Human Relations*, 58 (4): 429-461.

Watling, D., and Snook, J. (2003) 'Work Council and Trade Unions: Complementary or Competitive? The Case of SAGCo', *Industrial Relations Journal*, 34 (3): 260-270.

Weinz, W. (2006) *Worker Participation in a Globalised World*. IUF Secretariat, <http://www.iuf.org/issues/>

Weston, S., and Lucio, M. M. (1997) 'Trade Unions, Management and European Works Councils: Opening Pandora's Box', *The International Journal of Human Resource Management*, 8 (6): 764-779.

Wever, K. S. (1995) *Negotiating Competitiveness: Employment Relations and Organisational Innovation in Germany and the United States*. Boston: Harvard Business School Press.

Whitley, R. (1999) *Divergent Capitalisms: The Social Structuring and Change of Business Systems*. Oxford: Oxford University Press.

Wild, A. (1996) 'Work Councils: The European Directive and Practical Implementation Models for Employee Communication and Involvement', *The Busy Manager Series – Best Practice Management Reports*, Technical Communications (Publishing Limited).

Wilkinson, A. (1999) 'Employment Relations in SMEs', *Employee Relations*, 21 (3): 206-217.

Wilkinson, A., Dundon, T., and Grugulis, I. (2007) 'Information but not Consultation: Exploring Employee Involvement in SMEs', *The International Journal of Human Resource Management*, 18 (7): 1279-1297.

Wilkinson, A., Dundon, T., Marchington, M., and Ackers, P. (2004) 'Changing Patterns of Employee Voice', *Journal of Industrial Relations*, 46 (3): 298-322.

Wilkinson, A., Gollan, P. J., Marchington, M., and Lewin, D. (2010) 'Conceptualising Employee Participation in Organisations', in Wilkinson, A., Gollan, P. J., Marchington, M., and Lewin, D. (eds.) *The Oxford Handbook of Participation in Organisations*. Oxford: Oxford University Press, pp. 3-25.

Williams, K. (1988) *Industrial Relations and the German Model*. Aldershot (Hampshire, UK): Avebury.

Williams, S., and Adam-Smith, D. (2006) *Contemporary Employment Relations: A Critical Introduction*, 1st Edition. Oxford: Oxford University Press.

Willman, P., Bryson, A., and Gomez, R. (2007) 'The Long Goodbye: New Establishments and the Fall of Union Voice in Britain', *The International Journal of Human Resource Management*, 18 (7): 1318-1334.

Wills, J. (1999) 'European Works Councils in British Firms', *Human Resource Management Journal*, 9 (4): 19-38.

Wills, J. (2000) 'Great Expectations: Three Years in the Life of a European Works Council', *European Journal of Industrial Relations*, 6 (1): 85-107.

WMERF (2005) 'Results of the WMERF Information and Consultation Survey', by Hall, M., Adam, D., and Koukiadaki, A.,
(<http://www.wbs.ac.uk/downloads/research/wmerf-1205.pdf>).

Wood, S. (2008) 'Job Characteristics, Employee Voice and Well-Being in Britain', *Industrial Relations Journal*, 39 (2): 153-168.

Wood, S. J., and Fenton-O'Creevy, M. P. (2005) 'Direct Involvement, Representation and Employee Voice in UK Multinationals in Europe', *European Journal of Industrial Relations*, 11 (1): 27-50.

Wood, S., and Godard, J. (1999) 'The Statutory Union Recognition Procedure in the Employment Relations Bill: A Comparative Analysis', *British Journal of Industrial Relations*, 37 (2): 203-244.

Yeandle, D. (2005) 'An Employers' Organisation Perspective', in Storey, J. (ed.) *Adding Value through Information and Consultation*. Hampshire and New York: Palgrave Macmillan (in Association with The Open University Business School), pp. 29-37.

Yin, R. K. (1994) *Case Study Research: Design and Methods*, 2nd Edition. London: Sage Publications.

APPENDICES AND NOTES

Information and Consultation of Employees (ICE) Regulations 2004: An Overview

Adapted from: Hall et al. (2002); Hall (2005b: p. 112); Tailby and Winchester (2005: p. 445); DTI Guidance (2006); Gollan and Wilkinson (2007b: pp. 1150-1151); Dundon and Wilkinson (2009: pp. 412-415).

Through the transposition of the EU Directive (2002/14/EC), the Information and Consultation of Employees (ICE) Regulations 2004 have been brought into the UK framework of employment law. The legislation applies to undertakings in Great Britain with 50 or more employees and give the right of information-sharing and consultation about business issues that may include: changes to the structure of the company, plans for the employment trends, and changes in work organisation or contractual relations (including redundancies and transfer of undertakings). An undertaking is considered to be a company, partnership or sole trader with a registered office, head office or principal place of business situated in Great Britain. Furthermore, ‘undertaking’ is essentially another word for a company or firm, and subsequently, it may include any organisation carrying out an economic activity, non-profit making organisations and many in the public sector. Initially the legislation came into force on 6th April 2005 for undertakings with 150 or more employees. Then, on 6th April 2007, the minimal threshold was reduced to 100 employees; and finally, since 6th April 2008, the legislation has applied to undertakings with at least 50 employees (separate but similar provisions apply in Northern Ireland, whilst the employment thresholds specified are related to the UK as a whole).

Overall, according to Hall et al. (2002) and Hall (2005b), the EU Directive (2002/14/EC) requires all member states to establish a general statutory framework for information-sharing and consultation with the employees. In particular, employers must inform and consult elected employee representatives on: (a) the recent and probable development of the undertaking’s activities and economic situation (information only), (b) the situation, structure and probable development of

employment within the undertaking and any anticipatory measures envisaged – especially where there is a threat to employment within the undertaking (information and consultation), (c) decisions that are likely to lead to substantial changes in work organisation or contractual relations, including decisions covered by the legislation on collective redundancies and transfers of undertakings (information and consultation with a view to reaching an agreement). Information must be given in sufficient time and in such a fashion that the representatives can adequately study it and thus, where necessary, be prepared for the consultation process (Gollan and Wilkinson, 2007b). According to Regulation 20, the representatives, once elected, must have the opportunity to meet with the employer and give their opinion on matters subject to consultation, with a view to reaching agreement, whilst the employer must give a reasoned response to the representatives' views. Nevertheless, concerning category (c), where employers come under a duty to consult trade union or employee representatives under the existing legislation on collective redundancies and transfers of undertakings, they are not obliged to consult the representatives under the ICE Regulations, provided they notify them accordingly on each occasion.

The legal requirement for information-sharing and consultation with employees is not implemented automatically and can be triggered either by a formal request from employees or by an employer initiating the process (known also as employer notification). An agreement must set out how the employer shall inform and consult the employees or their representatives on an on-going basis. All employees are entitled to take part in the appointment or election of the representatives, with a view to have a full coverage of all employees. In addition, the employer must establish information and consultation arrangements/structures where a valid request has been made by employees. Nonetheless, the flexible and reflexive nature of the legislation (Hall, 2006) allows the arrangements and structures to be developed and tailored according to the given circumstances of each organisation. Most notably, the ICE Regulations do not specify: the nature of the representative body (i.e. whether it is a committee or council), the frequency of meetings, nor the facilities that should be granted to the representatives. More importantly, there is no definition for providing an explicit role to union representatives (Hall 2006; Lorber, 2006). The statutory provisions also allow the retention of pre-existing or voluntary agreements with the approval of workforce. An employer can continue with pre-existing information and

consultation arrangements (which may provide for either representative-based or direct means of information and consultation), provided that such arrangements have been agreed prior to an employee written request and: (i) the agreement is in writing, including any collective agreements with trade unions; (ii) the agreement covers all employees in the undertaking; (iii) the agreement sets out how the employer is to provide the information and seek employee views for consultation; and (iv) the arrangements have been agreed by the employees (Gollan and Wilkinson, 2007b: pp. 1150-1151).

Assuming that an organisation is complying with the statutory provisions, employees can trigger the required procedures and this must be done in writing by at least 10 per cent of employees in an undertaking. Overall, the ICE Regulations permit a single or a specified group of requests to be sent to the employer or the Central Arbitration Committee (CAC) and if employees prefer anonymity, they can submit their request to an independent body, such as: the CAC, ACAS, EAT etc. Even when an organisation has a voluntary and pre-existing agreement in place, employees can still request a change, but in this instance at least 40 per cent of employees must endorse such a request and subsequently, the employer is obliged to reach a negotiated agreement with genuine employee representatives. On the other hand, if fewer than 40 per cent of employees endorse the request for a negotiated agreement the employer can ballot the workforce on whether they support the request for new negotiations (or otherwise, the employer might be able to continue with pre-existing arrangements). Where a pre-existing agreement covers employees in more than one undertaking, the employer(s) may hold a single ballot across the relevant undertakings. Both parties have six months to reach a negotiated agreement (extendable by agreement). There is also a three-year moratorium on employee requests and employer notifications from the date of a negotiated agreement (unless the agreement is terminated), the date on which the standard information and consultation provisions apply and the date of an employee request that was the subject of a ballot in which the employees did not endorse the request (Hall, 2005b). A complaint regarding a negotiated agreement or a failure to comply with standard provisions must be brought to the CAC within three months of the alleged failure (Gollan and Wilkinson, 2007b).

Unless, an agreement is reached following a valid employee request (or through employer notification), standard or default provisions shall apply, which require employers to inform and consult employee representatives on subjects and in a certain way (as highlighted by Regulation 18). Furthermore, where the standard information and consultation provisions apply, the employer shall arrange for a ballot to elect the employee representatives. According to Regulation 19, there should be one representative per 50 employees, or part thereof, with a minimum of two and a maximum of 25 representatives. However, whereas the range of topics covered by the statutory requirements is potentially quite wide, the default or standard provisions are considered rather minimalist, since they are mainly confined to the specification of electing the representatives (Hall et al., 2002; Hall, 2005b and 2006).

The enforcement of the ICE Regulations and confidentiality provisions primarily apply to the negotiated agreements, within the context of statutory procedures, or where the standard or default information and consultation provisions are being implemented. Pre-existing arrangements are not enforced through the ICE Regulations and rely upon the nature of the agreement. However, if a pre-existing agreement is legally binding and employer is in breach, proceedings can be brought by the employees in the High Court so that the conflict will be resolved. Enforcement of the terms included in the negotiated agreements or imposition of standard or default arrangements (as defined by the statutory provisions of the legislation) can be achieved via complaints to the CAC. Subsequently, CAC may order the employer to take the necessary steps in order to comply with the provisions as defined by the ICE Regulations. Where the CAC uphold a complaint for failure to comply, the complainant may make an application to an Employment Appeal Tribunal (EAT) and any appeal must be made within 42 days of the date on which written notification of the CAC declaration is received. The EAT shall hear appeals and is responsible for issuing penalty notices. Failing to comply with a declaration made by the CAC may result in maximum penalty of £75,000. If it is considered necessary, enforcement of CAC orders can be also pursued through the courts (Hall 2005b; Gollan and Wilkinson, 2007b).

Regulations 25 and 26 designate the confidentiality of sensitive information given to the employee representatives. More specifically, employee representatives and other

recipients have a statutory duty concerning the disclosure of information or documents that are considered by the employer as strictly confidential. For instance, employers can withhold the disclosure of information or documents that could potentially harm or prejudice the undertaking. Furthermore, disputes about employers' decisions regarding the imposition of confidentiality restrictions or withholding information can be referred to the CAC. Employee representatives (or individual employees that endorse a request for negotiations) are legally protected against discrimination and unfair dismissal for exercising their rights (as defined by the ICE Regulations) and they can counter any punitive measures taken by management via Employment Tribunals. Finally, employee representatives can exercise the right to be compensated, in accordance with the time that they spend so as to carry out their duties.

Questionnaire for the Survey



Dear Sir / Madam,

Informing and consulting employees in the workplaces is of growing importance, especially now that the Information and Consultation of Employees (ICE) Regulations are in force for enterprises with 150 or more employees. We know relatively little on the extent to which practices are developed and how, if at all, these are changing. This short questionnaire, which should not take more than 10 minutes to complete, will potentially fill this gap and we will be very grateful for your invaluable help. It is a part of a wider research project funded by the Economic and Social Research Council (ESRC), ACAS and University of Bath. The project has been initiated by Sofoklis Sarvanidis, a PhD student from the Work and Employment Research Centre (WEREC, School of Management, University of Bath).

As soon as you complete the questionnaire, please return it by 31st January 2006, if it is possible, in the pre-paid envelope to the School of Management, University of Bath. Full confidentiality is guaranteed and no organisation will be identified in the research. The results and findings of the research will be sent to you.

Thank you in anticipation of your co-operation and support for this study.

Peter Cressey

Reader in Sociology and Industrial Relations

Department of Social and Policy Sciences, University of Bath

John Purcell

Professor of Human Resource Management

Head of Work and Employment Research Centre

School of Management, University of Bath

Robert Johnson

Area Director

ACAS - Southwest

Employee Involvement and Participation: Informing and Consulting Employees in Great Britain

Main Purpose and Focus

The purpose of the questionnaire is to *assess the current agreements/arrangements of Information and Consultation and the extent to which the (ICE) Regulations are influencing current practices*. It is anticipated that the results from this questionnaire will add a greater understanding about the mechanisms, schemes and structures adopted, the changes and adjustments in the nature of Information and Consultation Arrangements at workplaces in relation to the (ICE) Regulations; and also the potential impact, benefits, problems and outcomes expected by the various stakeholders at the organisations from introducing these arrangements. It is planned that an analysis of the results of the initial questionnaire, and other information on the specific research, will be available for wider circulation to participating companies after the completion of project.

Instructions

- a) This questionnaire ought to take only a few minutes using mainly tick boxes and rating scale.
- b) Please complete all the sections that are relevant to your company.
- c) For further details about the Regulations please refer to the Overview of the (ICE) Regulations provided at the end of questionnaire.
- d) If you are uncertain about the meaning of a particular word or phrase please refer to the Glossary of Terms provided at the end of questionnaire.
- e) Please return the completed questionnaire in the envelope provided before 31st January 2006, if it is possible.

Thank you very much for completing the questionnaire.

Address Label

The address label is a research tool used to measure the response rate. **Total confidentiality is guaranteed for all respondents. Any information about the**

company or name provided in this questionnaire will not be passed on to any individual, organisation, or official body in the analysis of results.

Section 1: Background Information

Question 1

What is your job title?

Question 2

What is the type of your organisation?

(please tick the appropriate box)

Public ☐

Private ☐

Question 3

What is the service/product of your organisation?

Question 4

Do you currently recognise a trade union for collective bargaining purposes?

(please tick the appropriate box)

Yes ☐

No ☐

Question 5

What proportion of your employees are members of a recognised trade union?

(please tick the appropriate box)

More than 90%	
70%-90%	
51%-70%	
31%-50%	
10%-30%	
Less than 10%	
Do not know	

Question 6

Is your organisation

(please tick the appropriate box)

an independent organisation in its own right ☐

part of a wider organisation ☐

other ☐

(please specify):

Question 7

Approximately, how many people are employed in your establishment?

(please tick the appropriate box)

49 or less	50-149	150-249	250-499	500-749	750-999	1,000 or more
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(If your establishment is part of a wider organisation, please indicate the total number of employees in this organisation)

49 or less	50-149	150-249	250-499	500-749	750-999	1,000 or more
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 2: Current Employee Involvement/Participation Practices

Question 8

Please indicate in each box how often you use the following forms of direct involvement/participation in your organisation for most of the employees
(please indicate in each box: 1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

team-working/self-management	
noticeboards	
team briefings/cascade communication	
quality circles/project groups/TQ circles	
suggestion schemes	
employee ballots	
employee opinion/satisfaction surveys	
team meetings	
meetings with the entire workforce	
focus groups or workshops	
staff newsletter/journal	
individual letters to all employees	
workplace-site intranet	
e-mail reporting/updates	
other (please specify)	

If you do not use any form of direct involvement/participation in your organisation, how likely is it that you will implement any type in the near future?
(please tick the appropriate box)

Not at all likely	Not very likely	Unsure	Quite likely	Very likely
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If it is quite/very likely that your organisation will implement any such form of direct involvement/participation in the near future, please provide details of the type and the reasons for doing this.

Question 9

Please indicate in each box how often you use the following forms of indirect involvement/participation in your organisation with employee representatives (please indicate in each box: 1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

European work councils	
Joint Consultative Committees/employee representative bodies/employee forums	
non-routinised written communications or meetings between employee representatives and senior managers	
other (please specify)	

If you do not use any form of indirect involvement/participation in your organisation, how likely is it that you will implement any such form in the near future?

(please tick the appropriate box)

Not at all likely	Not very likely	Unsure	Quite likely	Very likely
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If it is quite/very likely that your organisation will implement any such form of indirect involvement/participation in the near future, please provide details of what form it will take and the reasons for doing this.

Section 3: Quality of Current Employee Involvement Practices

Question 10

In general, how would you describe the relations between managers and employees in your organisation?

(please tick the appropriate box)

Very poor	Poor	Neither poor nor good	Good	Very good
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 11

How often do you provide information and consult with your employees or employee representatives about the following topics?

(please indicate in each box: 1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Information Sharing	Consultation
Financial issues (e.g. financial performance/prospects, budgets/budgetary cuts etc)		
Production issues (e.g. level of production/sales, quality of products/services, changes to products/services etc)		
Employment issues (e.g. redundancies, reducing labour turnover, changes to employment levels/status etc)		
Pay issues (e.g. wage/salary reviews, terms and conditions, bonuses, job evaluation etc)		
Future plans (e.g. company expansion/contraction etc)		
Leave and flexible working arrangements (including working time etc)		
Work organisation (e.g. changes to working methods, allocation of work between employees etc)		
Training strategy		
Equality/Diversity issues		
Pensions		
Health and safety		
Technological changes		
Changes to management/supervision arrangements		
Corporate social responsibility		
Other (please specify)		

Section 4: Current Knowledge of (ICE) Regulations

Question 12

To what extent are you aware of the (ICE) Regulations?

(please tick the appropriate box)

Not at all	Little	To some extent	Quite a lot	Extensively
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 5: Plans for responding to (ICE) Regulations

Question 13

Please state your organisation's potential response to the (ICE) Regulations

(please tick the appropriate box)

design a pre-existing agreement and get the approval from the employees	
discuss with a recognised trade union how to adopt the existing arrangements in order to meet the (ICE) Regulations	
ballot the workforce in order to determine their views	
set up a negotiating body and plan for an agreed 'information and consultation' procedure in order to meet the requirements of the regulations	
decide to take no action in response to the (ICE) Regulations	
other (please specify) _____ _____ _____	

Question 14

In your opinion, how likely is it that 10% or more of the employees will ask for new information and consultation arrangements/agreements in the next 12 months at your organisation?

(please tick the appropriate box)

Not at all likely	Not very likely	Unsure	Quite likely	Very likely
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 6: Effects and Benefits from Informing and Consulting Employees

Question 15

How likely is it that the (ICE) Regulations will change the way that employment relations are conducted in your organisation?

(please tick the appropriate box)

Not at all	Little	To some extent	Quite a lot	Extensively
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 16

How do you expect that the (ICE) Regulations will influence the climate of employment relations in your organisation?

(please tick the appropriate box)

Much worse	A bit worse	No change	A bit better	Much better
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 17

To what extent will the legal requirements for informing and consulting employees be beneficial for your organisation with regard to the following issues?

(please indicate in each box: 1=not at all, 2=little, 3=some, 4=a lot, 5=a great deal)

improved management of change	
enhanced productivity/efficiency	
improved problem-solving	
less employment disputes/grievances	
less labour turnover/absence	
other (please specify)	

Section 7: Participating in the Research

Question 18

The Work and Employment Research Centre, at the University of Bath, plans to follow up the questionnaire with five case-studies in order to conduct meetings and interviews with some senior managers and, where appropriate, with employee representatives. We will provide feedback results to participating companies. Would you like to participate in this research? If yes, please give your contact details. We would greatly appreciate your invaluable help.

Yes ☐

No ☐

Name:

Address:

Phone number:

E-mail:

Thank you very much for completing the questionnaire. For any queries/questions please contact:

Sofoklis Sarvanidis

PhD Candidate - Doctoral Researcher

Work and Employment Research Centre

School of Management

University of Bath

Bath

BA2 7AY

Phone Number: 07796 860991

Email: s.sarvanidis@bath.ac.uk

Webpage: people.bath.ac.uk/ss244

Overview of the ICE Regulations

The **Information and Consultation of Employees (ICE) Regulations**, which came into force in the UK in 6 April 2005, establish for the first time a general statutory framework that gives the employees the right to be informed and consulted by their employers on a range of key business, employment and restructuring issues; such as, changes to the structure of the company, plans for employment, changes in work organisation etc. These regulations have adopted the EU Directive (2002/14/EC), which is designed to “*promote social dialogue between management and labour*” (paragraph 1) within the European Community. They are initially applied in larger enterprises – those with 150 or more employees. More specifically, the (ICE) Regulations apply to undertakings with:

- 150 or more employees (which came into force in 6 April 2005),
- 100 or more employees, from 6 April 2007,
- 50 or more employees, from 6 April 2008.

Glossary of Terms

Company, establishment or workplace: Refers to the place of work to which this questionnaire has been addressed.

Consultation: Refers to the exchange of views and establishment of a dialogue between the employer and employees (or their representatives).

Employee ballots and employee opinion or satisfaction surveys: Surveys or questionnaires used to assess the present opinions/satisfaction of employees about various issues, e.g. manager and employee relationships, communication etc.

Employee involvement: Refers to management activities, typically focused on operational issues, and designed, primarily, to increase employee commitment. These activities can include a variety of techniques, such as: attitude surveys, team briefings, quality circles, employee focus groups etc. In addition, these practices/policies can provide employees with the opportunity to influence and where appropriate, take part

in the decision making on matters which affect them (for further details, please refer to the section: Employee Involvement and Participation).

Employee participation: Refers to the extent to which employees are represented in organisational decision-making. It can include self-managed teams, Joint Consultative Committees, negotiating bodies etc. In addition, these practices/policies can promote the collective rights of employees to be presented in organisational decision making and establish collective representation in corporate decisions, including collective bargaining over terms and conditions of employment etc (for further details, please refer to the section: Employee Involvement and Participation).

Employees: Refers to all of those individuals who are not managers. Other terms used for employees may include: staff/workforce/production workers or manual workers etc.

Information/communication: Refers to the provision of data to employees (or their representatives) relevant to the organisation and their jobs.

Communication: The communication of information can provide the opportunity for the employees and managers to exchange views and occurs through individual as well as collective consultation processes. Communication can be both one-way and two-way.

Joint Consultative Committees, Employee Representative Bodies or Employee Forums: Involve processes by which management seeks the views of employees, on matters of change, through elected representatives. JCCs are built upon the notion of indirect participation and worker representation in joint management-employee meetings, and can take a number of forms.

Managers: Refers to those individuals whose job includes: planning, organising, controlling and directing resources or staff.

Quality Circles: Small groups of employees, usually from the same work team, who meet voluntarily on a regular basis to identify, analyse and solve quality and work-related problems.

Suggestion schemes: Employees can provide suggestions on production matters to managers via meetings or suggestion boxes.

Team briefings or cascade communication: A system of communication operated by line management, based upon the principle of cascading information down the line. This can ensure that all employees know and understand what they, and others in the company, are doing.

Team working or self management: Employees are grouped into work teams often with a team leader. Employees then work together on production lines etc. Both terms incorporate the following sorts of elements: responsibility for a complete task; working without direct supervision; discretion over work methods and time; encouragement for team members to organise and multi-skill; influence over recruitment to the team etc.

Undertaking: The term undertaking is essentially another word for a company or firm, and includes any organisation carrying out an economic activity, including non-profit making organisations and many in the public sector.

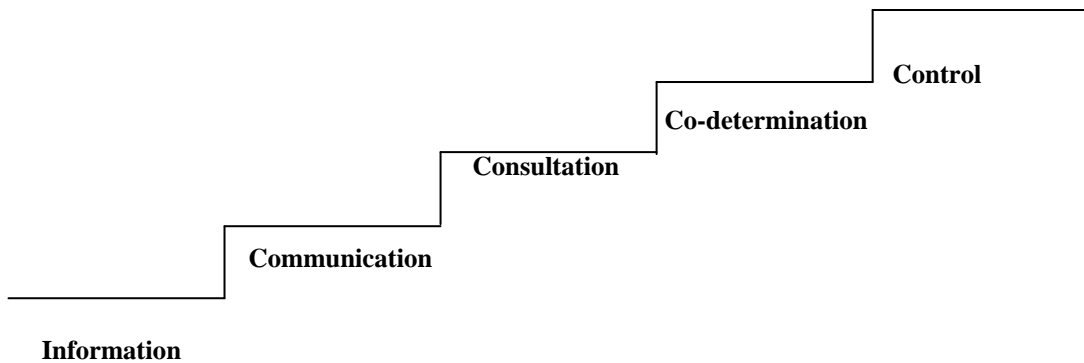
EMPLOYEE INVOLVEMENT AND PARTICIPATION

Degree, form, level and range:

- The **degree** denotes the extent to which employees are able to influence decisions about various aspects of management (such as, whether they are simply informed of changes, being consulted or actually making decisions etc), as illustrated below in the escalator of participation.
- Involvement/participation has mainly **two forms**, and can be either **indirect or direct**. **Indirect involvement/participation** takes place where employees are involved through their representatives, who are usually elected from a wider group. **Direct involvement/participation** is concerned with face-to-face or

written communications between managers and subordinates that involves individuals rather than representatives. According to the academics, the **direct form** is referred as on-line involvement/participation, where workers make decisions as part of their daily job responsibilities, as distinct from off-line involvement/participation where workers make suggestions through a formal scheme.

- Involvement/participation can take place at various organisational **levels** (such as, task, departmental, establishment, or corporate).
- Involvement/participation can **range** from the relatively trivial to more strategic concerns (such as investment strategies).



Escalator of Employee Participation

The glossary of terms is based on the following textbooks:

Marchington, M., and Wilkinson, A. (2005a) *Human Resource Management at Work: People Management and Development*, 3rd Edition, London: CIPD.

Marchington, A., and Wilkinson, A. (2005b) "Direct Participation and Involvement", in Bach, S. (ed.) *Managing Human Resources*, 4th Edition, Oxford: Blackwell Publishing, pp. 398-423.

Other useful textbooks:

Blyton, P., and Turnbull, P. (2004) *The Dynamics of Employee Relations*, third edition, Basingstoke: Palgrave Macmillan.

Boxall, P., and Purcell, J. (2003) *Strategy and Human Resource Management*, London: Palgrave Macmillan.

Storey, J. (2005) *Adding Value through Information and Consultation*, The Open University Business School, Basingstoke: Palgrave Macmillan.

Presentation and Analysis of Findings from the Survey

I. Direct Forms of Employee Involvement and Participation

The incidence of “Team-Working or Self-Management Teams” is more extensive in the non-unionised sector. In total, the figures are slightly scattered. More specifically, 22 out of 74 organisations (i.e. 29.73 per cent) use often this type of involvement. In addition, 19 organisations (i.e. 25.68 per cent) use this mechanism to a great extent. On the other hand, 12 organisations (i.e. 16.22 per cent) denoted in their responses “infrequently” and 11 (i.e. 14.87 per cent) “sometimes”. The majority of non-unionised workplaces use “often” (13 out of 33; i.e. 39.40 per cent) and “extensively” (11 out of 33; i.e. 33.33 per cent) this voice arrangement. Similarly, the majority of unionised workplaces use “infrequently” (10 out of 41; i.e. 24.39 per cent) this mechanism; whilst there is a relatively similar scattering for the unionised organisations that denoted “sometimes” (19.51 per cent), “often” (21.95 per cent) and “a great deal” (19.51 per cent).

		Recognition of Trade Unions		Total
		No	Yes	
Team-Working/ Self-Management	Not at all	2	2	4
	Infrequently	2	10	12
	Sometimes	3	8	11
	Often	13	9	22
	A great deal	11	8	19
	Not answered	2	4	6
Total		33	41	74

“Noticeboards” are very commonly used in the vast majority of the organisations. In total, 38 (i.e. 51.35 per cent) organisations often use “Noticeboards” and 24 (i.e. 32.43 per cent) use them extensively. There is a slightly a stronger prevalence in the non-unionised sector. More specifically, 19 out of 33 non-unionised organisations (i.e. 57.58 per cent) use “extensively” this mechanism and nine out of 33 (i.e. 27.27 per cent) denoted “often”. The corresponding figures (with regard to the “extensive” and “often” use of “Noticeboards”) for the unionised sector are 19 out of 41 (i.e. 46.34 per cent) and 15 out of 41 (i.e. 36.59 per cent), respectively.

		Recognition of Trade Unions		Total
		No	Yes	
Noticeboards	Not at all	1	0	1
	Infrequently	1	2	3
	Sometimes	3	5	8
	Often	9	15	24
	A great deal	19	19	38
Total		33	41	74

“Team-Briefings and Cascade Communication” are also very widespread in the majority of the organisations. In total, the majority of organisations (32 out of 74; i.e. 43.24 per cent) use “often” this form of participation. In addition, 29 organisations (i.e. 39.19 per cent) use “extensively” this mechanism. Only two organisations use ‘infrequently’ this type of voice arrangement and 10 responses denoted “sometimes”. Most of the non-unionised organisations (16 out of 33; i.e. 48.49 per cent) use “extensively” this form of employee involvement and a substantial number of responses denoted “often” (10 out of 33; i.e. 30.30 per cent). The corresponding figures for the unionised sector are 13 out of 41 (i.e. 31.71 per cent) and 22 out of 41 (i.e. 53.66 per cent), respectively.

		Recognition of Trade Unions		Total
		No	Yes	
Team Briefings/ Cascade Communication	Infrequently	1	1	2
	Sometimes	5	5	10
	Often	10	22	32
	A great deal	16	13	29
	Not answered	1	0	1
Total		33	41	74

According to the findings of the survey, a significant number of organisations do not use regularly “Quality Circles”. Overall, the responses for this type of direct voice are widely scattered. More specifically, organisations provided the same number of responses (19 out of 74; i.e. 25.68 per cent) for using this voice arrangement

“sometimes” and “often”. Predominantly, those organisations that use “often” this mechanism are non-unionised (13 out of 33; i.e. 39.39 per cent), whilst the relevant number of responses for the unionised sector is much lower (six out of 41; i.e. 14.63 per cent). On the other hand, some organisations (15 out of 74; i.e. 20.27 per cent) denoted “infrequent” use; especially in the unionised sector, where the responses are more (nine out of 41; i.e. 26.83 per cent) compared with the non-unionised sector (4 out of 33; i.e. 12.12 per cent). In addition, a significant number of organisations (14 out of 74; i.e. 18.92 per cent) do not use at all “Quality Circles” and similarly, the responses, for such an instance, are more prevalent in the unionised (nine out of 41; i.e. 21.95 per cent) rather than the non-unionised sector (five out of 33; i.e. 15.15 per cent)

		Recognition of Trade Unions		Total
		No	Yes	
Quality Circles/TQ Circles	Not at all	5	9	14
	Infrequently	4	11	15
	Sometimes	9	10	19
	Often	13	6	19
	A great deal	1	2	3
	Not answered	1	3	4
Total		33	41	74

There is a dispersed use of “Suggestion Schemes” amongst the organisations, but especially in the case of unionised workplaces there is less prevalence regarding this type of direct employee voice. In particular, 25 organisations (i.e. 33.78 per cent) do not use “at all” this form of employee involvement, which is substantially less widespread in the unionised sector (17 out of 41; i.e. 41.46 per cent) rather than in non-unionised workplaces (eight out of 33; i.e. 24.24 per cent). Furthermore, 16 organisations (i.e. 21.62 per cent) use “infrequently” this mechanism of employee voice, with a similar response rate between unionised workplaces (nine out of 41; i.e. 21.95 per cent) and the non-unionised sector (seven out of 33; i.e. 21.21 per cent). A slightly smaller number of organisations (12 out of 74; i.e. 16.22 per cent) denoted “sometimes”, with equal number of responses between the unionised (six out of 41; i.e. 14.63 per cent) and non-unionised sectors (six out of 33; i.e. 18.18 per cent). Quite

similar is the number of organisations (10 out of 74; i.e. 13.51 per cent) that denoted “often”, with nearly identical responses between the unionised (six out of 41; i.e. 14.63 per cent) and the non-unionised sectors (four out of 33; i.e. 12.12 per cent). It is noteworthy, that eight HR managers claimed that they use “extensively” “Suggestion Schemes” in their workplaces, and only one has a formal trade union recognition agreement.

		Recognition of Trade Unions		Total
		No	Yes	
Suggestion Schemes	Not at all	8	17	25
	Infrequently	7	9	16
	Sometimes	6	6	12
	Often	4	6	10
	A great deal	7	1	8
	Not answered	1	2	3
Total		33	41	74

“Employee Ballots” are not extensive in the survey sample, especially for the non-unionised sector, where this form of involvement is conspicuously absent. In total, 26 organisations (i.e. 35.14 per cent) do not use at all “Employee Ballots”, 19 (i.e. response rate: 57.58 per cent) of which identified themselves as being within the non-unionised sector and seven (i.e. 17.07 per cent) as having a trade union recognition agreement. In addition, 24 organisations (i.e. 32.43 per cent) denoted that they use this voice arrangement “infrequently”; 20 of them (i.e. 48.48 per cent) are unionised and four (i.e. 12.12 per cent) are non-unionised. On the other hand, 14 organisations (i.e. 18.92 per cent) responded that they use this form of involvement “sometimes”, whilst the corresponding response rates between the unionised (eight out of 41; i.e. 19.51 per cent) and non-unionised sectors (six out of 33; i.e. 18.18 per cent) are almost identical. Two of the unionised and non-unionised organisations denoted that they use this form of employee voice “often”, and only one unionised organisation is reported to use it “extensively” (i.e. “a great deal”).

		Recognition of Trade Unions		Total
		No	Yes	
Employee Ballots	Not at all	19	7	26
	Infrequently	4	20	24
	Sometimes	6	8	14
	Often	2	2	4
	A great deal	0	1	1
	Not answered	2	3	5
Total		33	41	74

There is a scattered use of “Employee Opinion/Satisfaction Surveys” amongst the organisations, with a slight variance between the unionised and non-unionised sectors. For instance, 16 organisations (i.e. 21.62 per cent) do not use “at all” this form of involvement, and this is especially so in the non-unionised (nine out of 33; i.e. 27.27 per cent) rather than the unionised sector (seven out of 41; i.e. 17.07 per cent). A similar percentage of organisations (i.e. 21.62 per cent) denoted that they use it “sometimes”, with higher prevalence of this response from the unionised organisations (10 out of 41; i.e. 24.39 per cent) than from the non-unionised sector (six out of 33; i.e. 18.18 per cent). The majority of the organisations (21 out of 74; i.e. 28.38 per cent) responded that it takes place “infrequently” with higher prevalence of this outcome in the unionised sector (14 out of 41; i.e. 34.15 per cent) as compared with non-unionised workplaces (seven out of 33; i.e. 21.21 per cent). It is noteworthy that only three non-unionised workplaces and one unionised organisation use “extensively” this form of employee voice.

		Recognition of Trade Unions		Total
		No	Yes	
Employee Opinion/Satisfaction Surveys	Not at all	9	7	16
	Infrequently	7	14	21
	Sometimes	6	10	16
	Often	7	8	15
	A great deal	3	1	4
	Not answered	1	1	2
Total		33	41	74

“Team Meetings” are widely used by the vast majority of the organisations that responded to the survey, with higher response level from the non-unionised sector. More specifically, 33 organisations (i.e. 44.60 per cent) “extensively” (i.e. “a great deal”) adopt this form of employee involvement. The corresponding figures for both the non-unionised (18 out of 33; i.e. 54.55 per cent) and unionised sectors (15 out of 41; 36.59 per cent) are notably high, but they are relatively higher in the former sector. In addition, 23 organisations (i.e. 31.08 per cent) use “often” this form of employee voice practice with slightly different figures between the unionised (12 out of 41; i.e. 29.27 per cent) and non-unionised sectors (11 out of 33; 33.33 per cent). Furthermore, 14 organisations (i.e. 18.92 per cent) use “sometimes” “Team Meetings”, with a notable variance between the unionised (11 out of 41; i.e. 26.83 per cent) and non-unionised sectors (three out of 33; i.e. 9.09 per cent). A nominal number of organisations denoted “infrequent” and “not at all” concerning the incidence of “Team-Meetings”.

		Recognition of Trade Unions		Total
		No	Yes	
Team Meetings	Not at all	0	1	1
	Infrequently	1	1	2
	Sometimes	3	11	14
	Often	11	12	23
	A great deal	18	15	33
	Not answered	0	1	1
Total		33	41	74

There is a relatively balanced use of “Meetings with the Entire Workforce” amongst the unionised and non-unionised organisations, but they tend to be slightly more widespread in the non-unionised sector. In particular, 13 organisations (i.e. 17.57 per cent) do not use “at all” this form of employee involvement with a nearly split difference in responses between unionised (seven out of 41; i.e. 17.07 per cent) and non-unionised workplaces (six out of 33; i.e. 18.18 per cent). 16 organisations cited “infrequent” use of this form of employee voice with similar number of response rates between the unionised (eight out of 41; i.e. 19.51 per cent) and non-unionised sectors (eight out of 33; i.e. 24.24 per cent). The majority of the unionised organisations (13 out of 41; i.e. 31.71 per cent) implement “sometimes” “Meetings with Entire

Workforce”, whereas the responses for the non-unionised workplaces are less evident (three out of 33; i.e. 9.09 per cent). Moreover, in the non-unionised sector this form of employee voice is “often” used (10 out of 33; i.e. 30.30 per cent), with slightly lower incidence for the unionised organisations (nine out of 41; i.e. 21.95 per cent). Finally, five non-unionised and two unionised organisations extensively use it.

		Recognition of Trade Unions		Total
		No	Yes	
Meetings with the Entire Workforce	Not at all	6	7	13
	Infrequently	8	8	16
	Sometimes	3	13	16
	Often	10	9	19
	A great deal	5	2	7
	Not answered	1	2	3
Total		33	41	74

Similar are the findings on the use of the “Focus Groups or Workshops”, whilst their use appears as being slightly more widespread in non-unionised workplaces. Overall, the majority of responses denoted that they do not use this form of mechanism “at all”, with a relatively higher response rate in unionised workplaces (12 out of 41; i.e. 29.27 per cent) compared with the non-unionised sector (eight out of 33; i.e. 24.24 per cent). Also, 16 organisations use “infrequently” this form of employee voice and the corresponding figures are 21.95 per cent for the unionised organisations and 21.21 per cent for the non-unionised organisations. A substantial number of unionised workplaces (11 out of 41; i.e. 26.83 per cent) denoted “sometimes” in their responses and six non-unionised organisations provided the same answer. In addition, most of the non-unionised organisations (nine out of 33; i.e. 27.27 per cent) ‘often’ use “Focus Groups”, whilst the corresponding incidence is less widespread in the unionised sector (seven out of 41; i.e. 17.07 per cent). Finally, three non-unionised organisations, and two unionised denoted that they use this form of mechanism “a great deal”.

		Recognition of Trade Unions		Total
		No	Yes	
Focus Groups or Workshops	Not at all	8	12	20
	Infrequently	7	9	16
	Sometimes	6	11	17
	Often	9	7	16
	A great deal	3	2	5
Total		33	41	74

A great range of responses can be identified about the incidence of “Staff Newsletters/Journals”, but their use is predominantly evident in organisations with a trade union recognition agreement. In total, 24 organisations “often” provide their employees with “Newsletters/Journals”, while the response rate being very high for the unionised sector (39.02 per cent). In addition, seven unionised and eight non-unionised organisations adopt extensively this practice. On the other hand, this practice is not applied “at all” by a substantial number of organisations in the non-unionised sector (nine out of 33; i.e. 27.27 per cent) and by relatively less number of unionised organisations (six out of 41; i.e. 14.63 per cent).

		Recognition of Trade Unions		Total
		No	Yes	
Staff Newsletter/journal	Not at all	9	6	15
	Infrequently	3	4	7
	Sometimes	5	8	13
	Often	8	16	24
	A great deal	8	7	15
Total		33	41	74

The practice of sending “Individual Letters to all Employees” tends to be equally spread amongst the unionised and non-unionised organisations. The majority of organisations (25 out of 74; i.e. 33.78 per cent) “sometimes” use this form of employee voice in both the unionised (13 out of 41; i.e. 31.71 per cent) and non-unionised sectors (12 out of 33; i.e. 36.36 per cent). In addition, 16 organisations (i.e. 21.62 per cent) reported that they use “often” this direct form of involvement with similar figures amongst the unionised (nine out of 41; i.e. 21.95 per cent) and non-

unionised sectors (seven out of 33; i.e. 21.21 per cent). To a lesser extent, nine organisations denoted “a great deal” of use of this mechanism, with slightly different response rates between the unionised (four out of 41; i.e. 9.75 per cent) and non-unionised sectors (five out of 33; i.e. 15.15 per cent). On the other hand, 17 organisations (i.e. 22.97 per cent) “infrequently” use “individual letters”, with higher prevalence in the unionised sector (11 out of 41; i.e. 26.83 per cent) compared to the non-unionised organisations (six out of 33; i.e. 18.18 per cent). Only three non-unionised and three unionised organisations do not use “at all” this communication mechanism with their employees.

		Recognition of Trade Unions		Total
		No	Yes	
Individual Letters to all Employees	Not at all	3	3	6
	Infrequently	6	11	17
	Sometimes	12	13	25
	Often	7	9	16
	A great deal	5	4	9
	Not answered	0	1	1
Total		33	41	74

“Workplace-site Intranet” is widespread, while the majority of organisations (27 out of 74; i.e. 36.49 per cent) denoted that they employed this mechanism “a great deal”, with relatively high response rates both for the non-unionised (15 out of 33; i.e. 45.56 per cent) and unionised sectors (12 out of 41; i.e. 29.27 per cent). In addition, some respondents from the unionised sector (nine out of 41; i.e. 21.95 per cent) reported that they use “often” this mechanism, but only three of non-unionised organisations (i.e. 9.09 per cent) denoted the same answer. Nearly identical responses (11 out of 74; i.e. 14.87 per cent) amongst the unionised (six out of 41; i.e. 14.63 per cent) and non-unionised sectors (five out of 33; i.e. 15.15 per cent) denoted “sometimes”. However, the scope of responses is also widely scattered as eight non-unionised (i.e. 24.24 per cent) and 10 unionised organisations (i.e. 24.39 per cent) do not use “at all” this form of employee communication and two non-unionised and four unionised organisations use it “infrequently”.

		Recognition of Trade Unions		Total
		No	Yes	
Workplace-site Intranet	Not at all	8	10	18
	Infrequently	2	4	6
	Sometimes	5	6	11
	Often	3	9	12
	A great deal	15	12	27
Total		33	41	74

Finally, the last form of direct involvement that is included in the questionnaire is “Email Reporting/Updates”. It appears to be, together with the “Workplace-site Intranet”, one of the most prevalent forms of direct communication, as 25 organisations denoted that use it “a great deal”, with a higher response rate in this category from the non-unionised sector (15 out 33; i.e. 45.46 per cent) than for unionised workplaces (10 out of 41; i.e. 24.39 per cent). In addition, 16 organisations (i.e. 21.62 per cent) use this form of direct communication “often” with slightly different response rates between the unionised (eight out of 41; i.e. 19.51 per cent) and non-unionised sectors (eight out of 33; i.e. 24.24 per cent). An identical number of organisations denoted “sometimes” with a varying response rate coming from unionised (11 out of 41; i.e. 26.83 per cent) and non-unionised workplaces (five out of 33; i.e. 15.15 per cent). On the other hand, some unionised organisations (nine out of 41; i.e. 21.95 per cent) and a limited number of non-unionised workplaces (two out of 33; i.e. 6.06 per cent) denoted “infrequent” use of “Email reporting”. Finally, only one unionised and three non-unionised organisations do not use “at all” this form of direct communication.

		Recognition of Trade Unions		Total
		No	Yes	
E-mail Reporting/ Updates	Not at all	3	1	4
	Infrequently	2	9	11
	Sometimes	5	11	16
	Often	8	8	16
	A great deal	15	10	25
	Not answered	0	2	2
Total		33	41	74

II. Information-Sharing with Employees

“Information-Sharing for Financial Issues” is prevalent in the vast majority of organisations. 24 organisations (i.e. 32.43 per cent) “often” follow this practice and identical number of responses denoted “a great deal”. Nearly similar are the response rates amongst the unionised (i.e. 14 out of 41; i.e. 34.15 per cent) and non-unionised organisations (10 out of 33; i.e. 30.30 per cent) that designated “often” dissemination of this sort of information, whilst the corresponding rates are converse and slightly different between the unionised (12 out of 41; i.e. 29.27 per cent) and non-unionised sectors (12 out of 33; i.e. 36.36 per cent) regarding the most regular provision of information. A bit lower are the response rates concerning those organisations that reported that “sometimes” they provide this sort of information, with slightly variant figures between the unionised (11 out of 41; i.e. 26.83 per cent) and non-unionised organisations (seven out of 33; i.e. 21.21 per cent). Quite nominal and relatively trivial are the responses that assigned “infrequent” and “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Financial Issues	Not at all	2	0	2
	Infrequently	2	4	6
	Sometimes	7	11	18
	Often	10	14	24
	A great deal	12	12	24
Total		33	41	74

Similar is the distribution of responses for information-sharing about “Production Issues”. Most of organisations (27 out of 74; i.e. 36.49 per cent) responded that they “often” provide this sort of information to their employees with higher figures for the unionised (18 out of 41; i.e. 43.90 per cent) as compared to the non-unionised sector (nine out 33; i.e. 27.27 per cent). Almost identical are the responses rates between the unionised (13 out of 41; i.e. 31.71 per cent) and non-unionised organisations (11 out of 33; i.e. 33.33 per cent) concerning the most regular dissemination of information for “Production Issues”. Relatively lower and similar are the responses that denoted “sometimes” for both the unionised (seven out of 41; i.e. 17.07 per cent) and non-unionised organisations (six out of 33; i.e. 18.18 per cent). Nominal are the responses regarding “infrequently” and “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Production Issues	Not at all	1	0	1
	Infrequently	4	1	5
	Sometimes	6	7	13
	Often	9	18	27
	A great deal	11	13	24
	Not answered	2	2	4
Total		33	41	74

Very common is the provision of information for “Employment Issues” and especially for the unionised organisations where collective bargaining for this sort of issues is more coherent and effective. More specifically, a substantial number of organisations (16 out of 74; i.e. 21.62 per cent) also denoted that they follow this practice to “a great extent”, but with a much stronger dominance in the unionised (13 out of 41; i.e. 31.71 per cent) rather than the non-unionised sector (three out of 33; i.e. 9.09 per cent). In addition, the vast majority of organisations (31 out of 74; i.e. 41.89 per cent) inform “often” their employees about such issues, with high response rates for both the unionised (16 out of 41; i.e. 39.02 per cent) and non-unionised organisations (15 out of 33; i.e. 45.46 per cent). Higher are also the responses from unionised workplaces (nine out of 41; i.e. 21.95 per cent) as compared with non-unionised workplaces (four out of 33; i.e. 12.12 per cent) for those denoting “sometimes”. Similarly with the

aforementioned issues, nominal are the responses regarding “infrequently” and “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Employment Issues	Not at all	2	0	2
	Infrequently	4	1	5
	Sometimes	4	9	13
	Often	15	16	31
	A great deal	3	13	16
	Not answered	5	2	7
Total		33	41	74

Likewise, the provision of another sort of issues (i.e. Pay Issues), which are predominantly involved in the agenda of collective bargaining and directly affect employees, has a high response rate in the unionised sector. More specifically, 18 organisations (i.e. 24.32 per cent) denoted that they extensively disseminate information about “Pay Issues”, with higher response rate in the unionised sector (i.e. 12 out of 41; i.e. 29.27 per cent) when contrasted with the non-unionised sector (six out of 33; i.e. 18.18 per cent). In addition, the majority of organisations (26 out of 74; i.e. 35.14 per cent) provide “often” this sort of information, with nearly similar response rate in non-unionised workplaces (12 out of 33; i.e. 36.36 per cent) compared with unionised workplaces (14 out of 41; i.e. 34.15 per cent). Some responses (19 out of 74; i.e. 25.68 per cent) denoted “sometimes”, with slightly similar response rates amongst the unionised (11 out of 41; i.e. 26.83 per cent) and non-unionised organisations (eight out of 33; i.e. 24.24 per cent). Quite nominal responses were denoted as “not at all” and “infrequently”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Pay Issues	Not at all	2	0	2
	Infrequently	3	1	4
	Sometimes	8	11	19
	Often	12	14	26
	A great deal	6	12	18
	Not answered	2	3	5
Total		33	41	74

Information-sharing for “Future Plans” is also widespread for the majority of organisations with nearly similar response rates for both sectors. More specifically, the vast majority of responses denoted “often” (31 out of 74; i.e. 41.89 per cent), with slightly lower response rate in the unionised sector (17 out of 41; i.e. 41.46 per cent) as compared with the non-unionised sector (14 out of 33; i.e. 42.42 per cent). In addition, fewer of organisations (14 out of 74; i.e. 18.92 per cent) denoted “a great deal”, with similar response rates amongst the unionised (eight out of 41; i.e. 19.51 per cent) and non-unionised organisations (six out of 33; i.e. 18.18 per cent). Likewise, a nearly identical number of organisations (16 out of 74; i.e. 21.62 per cent) denoted “sometimes”, with slightly higher response rate for the unionised sector (10 out of 41; i.e. 24.39 per cent) as compared with non-unionised sector (6 out of 33; i.e. 18.18 per cent). Finally, eight organisations denoted “infrequently”, whilst only three responses were designated as “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Future Plans	Not at all	3	0	3
	Infrequently	3	5	8
	Sometimes	6	10	16
	Often	14	17	31
	A great deal	6	8	14
	Not answered	1	1	2
Total		33	41	74

Information-sharing for “Leave and Flexible Working Arrangements” tends to be slightly more regular in non-unionised workplaces. The majority of organisations (28 out of 74; i.e. 37.84 per cent) argued that they provide “often” this sort of information to their employees, with higher dominance in the non-unionised sector (15 out of 33; i.e. 45.46 per cent) as compared with the unionised sector (13 out of 41; i.e. 31.71 per cent). In addition, 19 responses (i.e. 25.68 per cent) declared “sometimes”, with lower rates in the non-unionised sector (6 out of 33; i.e. 18.18 per cent) in contrast with the unionised sector (13 out of 41; i.e. 31.71 per cent). On the other hand, slightly higher is the response rate for “infrequently” sharing this sort of information in non-unionised workplaces (six out of 33; i.e. 18.18 per cent) compared with unionised workplaces (six out of 41; i.e. 14.63 per cent). Nonetheless, seven organisations extensively provide information for such issues, with relatively equal response rate between the two sectors. Finally, a nominal number of responses denoted “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Leave and Flexible Working Arrangements	Not at all	1	2	3
	Infrequently	6	6	12
	Sometimes	6	13	19
	Often	15	13	28
	A great deal	3	4	7
	Not answered	2	3	5
Total		33	41	74

A marked variation in the responses was provided by organisations regarding the information-sharing about “Work Organisation Issues”, but predominantly the majority of responses (25 out of 74; i.e. 33.78 per cent) are denoted as “often” with slightly more evident response rate for non-unionised workplaces (12 out 33; i.e. 36.36 per cent) in comparison with the unionised sector (13 out 41; i.e. 31.70 per cent). The majority of unionised organisations (15 out of 41; i.e. 36.59 per cent) denoted “sometimes”, whilst the corresponding figure for the non-unionised sector is lower (seven out of 33; i.e. 21.21 per cent). Some respondents (12 out of 74; i.e. 16.22 per cent) designated an extensive provision of this sort of information, with higher incidence in the unionised sector (eight out of 41; i.e. 19.51 per cent) rather than the non-unionised sector (four out of 33; i.e. 12.12 per cent). On the other hand, only a

few non-unionised organisations (seven out of 33; i.e. 21.21 per cent) “infrequently” inform their employees about “Work Organisation Issues” and the corresponding rate for the unionised organisations is even lower (three out of 41; i.e. 7.31 per cent).

		Recognition of Trade Unions		Total
		No	Yes	
Information about Work Organisation	Not at all	1	0	1
	Infrequently	7	3	10
	Sometimes	7	15	22
	Often	12	13	25
	A great deal	4	8	12
	Not answered	2	2	4
Total		33	41	74

As previously noted, there is a moderate dissemination of information relevant to the “Training Strategy” with slight differences between the two sectors. The majority of organisations (21 out of 74; i.e. 28.38 per cent) “infrequently” provide this sort of information with slightly identical response rates between the unionised (12 out of 41; i.e. 29.27 per cent) and non-unionised sectors (nine out of 33; i.e. 27.27 per cent). Similarly, with a bit lower number in total (18 out of 74; i.e. 24.35 per cent) and nearly identical response rates, some unionised (10 out of 41; i.e. 24.39 per cent) and non-unionised organisations (eight out of 33; i.e. 24.24 per cent) “often” inform their employees about “Training Issues”. Conversely, there are different response rates that denote “sometimes” (19 organisations in total), amongst the unionised sector (nine out of 41; i.e. 21.95 per cent) and non-unionised sector (10 out of 33; i.e. 30.30 per cent). Eight organisations (with equal split between the two sectors) extensively (i.e. “a great deal”) provide information about such issues, whilst one non-unionised and four unionised organisations do not provide such information “at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Training Strategy	Not at all	1	4	5
	Infrequently	9	12	21
	Sometimes	10	9	19
	Often	8	10	18
	A great deal	4	4	8
	Not answered	1	2	3
Total		33	41	74

Similar is the range of responses regarding “Equality and Diversity Issues” in relation to “Training Strategy”. The majority of organisations denoted similar number of responses (22 out of 74; i.e. 29.73 per cent) for providing “infrequently and sometimes” information for this type of issues, with nearly identical response rates amongst the unionised (12 out of 41; i.e. 29.27 per cent) and non-unionised sectors (10 out of 33; i.e. 30.30 per cent). A lower number of organisations (12 out of 74; i.e. 16.22 per cent) “often” provide this sort of information, with a slightly higher response rate in the non-unionised sector (six out of 33; i.e. 18.18 per cent) when compared with the unionised sector (six out of 41; i.e. 14.63 per cent). Likewise, nine organisations extensively (i.e. “a great deal”) inform their employees about “Training Strategy” with almost identical response rates amongst the unionised (five out of 41; i.e. 12.20 per cent) and non-unionised sectors (four out of 33; i.e. 12.12 per cent). Nonetheless, on this matter there was a higher response rate of unionised organisations (six out of 41; i.e. 14.63 per cent), as compared with the non-unionised organisations (two out of 33; i.e. 6.06 per cent) that they do not provide “at all” this sort of information.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Equality/Diversity Issues	Not at all	2	6	8
	Infrequently	10	12	22
	Sometimes	10	12	22
	Often	6	6	12
	A great deal	4	5	9
	Not answered	1	0	1
Total		33	41	74

The majority of organisations (23 out of 74; i.e. 31.08 per cent) “often” inform their employees about issues that involve “Pensions”, with this response rate being lower for the unionised sector (11 out of 41; i.e. 26.83 per cent), compared with the non-unionised sector (12 out of 33; i.e. 36.36 per cent). In addition, 11 organisations (i.e. 14.87 per cent) denoted “a great deal” in their responses, with similar proportion between the unionised (six out of 41; i.e. 14.63 per cent) and non-unionised sectors (five out of 33; i.e. 15.15 per cent). Slightly more organisations (14 out of 74; i.e. 18.92 per cent) denoted “sometimes” in their responses, with nearly identical rates amongst the unionised (eight out of 41; i.e. 19.51 per cent) and non-unionised sectors (six out of 33; i.e. 18.18 per cent). On the other hand, a substantial proportion of unionised organisations (11 out of 41; 26.83 per cent) “infrequently” provide information about “pensions”, whilst the figures are lower for the non-unionised organisations (five out of 33; i.e. 15.15 per cent). Only a nominal number of responses would be denoted as “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Pensions	Not at all	2	3	5
	Infrequently	5	11	16
	Sometimes	6	8	14
	Often	12	11	23
	A great deal	5	6	11
	Not answered	3	2	5
Total		33	41	74

It is noteworthy that a substantial number of organisations (31 out of 74; i.e. 41.89 per cent) provide “often” information about “Health and Safety Issues”, with higher incidence in the non-unionised sector (16 out of 33; i.e. 48.49 per cent) compared with the unionised sector (15 out of 41; i.e. 36.59 per cent). Apparently, the significance of this issue is evident through the response rates and especially for the unionised sector. In particular, very high proportion of organisations (29 out of 74; i.e. 39.19 per cent) denoted in their responses “a great deal”, with higher rate in the unionised organisations (19 out of 41; i.e. 46.34 per cent) in relation to the non-unionised organisations (10 out of 33; i.e. 30.30 per cent). Much less is the incidence for the remaining scope of responses. More specifically, five unionised and two non-unionised organisations provide “sometimes” information about “Health and Safety Issues”, whilst one unionised and three non-unionised organisations denoted “infrequently” and none of the responses were designated as “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Health and Safety Issues	Infrequently	3	1	4
	Sometimes	2	5	7
	Often	16	15	31
	A great deal	10	19	29
	Not answered	2	1	3
Total		33	41	74

A scattered scope of answers can be pinpointed for information-sharing about “Technological Issues”, but most of organisations responded “sometimes” with higher

incidence in the unionised sector (17 out of 41; i.e. 41.46 per cent), as compared with the responses from the non-unionised sector (nine out of 33; i.e. 27.27 per cent). A substantial number of organisations (15 out of 74; i.e. 20.27 per cent) provide “often” information about such issues, with nearly identical response rates amongst unionised (eight out of 41; i.e. 19.51 per cent) and non-unionised workplaces (seven out of 33; i.e. 21.21 per cent). A much lower proportion of responses can be pinpointed as “extensive” (i.e. “a great deal”), with only two unionised and four non-unionised organisations providing extensive information on such issues. On the other hand, 17 organisations (i.e. 22.97 per cent) “infrequently” provide information about “Technological Changes”, with nearly similar response rates between the unionised (nine out of 41; i.e. 21.95 per cent) and non-unionised sectors (eight out of 33; i.e. 24.24 per cent). Only six responses are denoted as “not at all” with equal split of respondents between the two sectors.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Technological Changes	Not at all	3	3	6
	Infrequently	8	9	17
	Sometimes	9	17	26
	Often	7	8	15
	A great deal	4	2	6
	Not answered	2	2	4
Total		33	41	74

The majority of organisations (28 out of 74; i.e. 37.84 per cent) inform “often” their employees about “Management/Supervision Arrangements”, with nearly parallel incidence in unionised (15 out of 41; i.e. 36.59 per cent) and non-unionised workplaces (13 out of 33; i.e. 39.39 per cent). A slightly identical number of organisations (26 out of 74; i.e. 35.14 per cent) provide less regularly (i.e. “sometimes”) information about such issues, with a higher incidence in the unionised sector (18 out of 41; i.e. 43.90 per cent) in comparison with the non-unionised sector (eight out of 33; i.e. 24.24 per cent). Nine organisations denoted “a great deal” in their responses, and five of them are from the unionised sector. On the other hand, six non-unionised and two unionised organisations provide “infrequently” such information.

		Recognition of Trade Unions		Total
		No	Yes	
Information about Management/Supervision Arrangements	Not at all	1	0	1
	Infrequently	6	2	8
	Sometimes	8	18	26
	Often	13	15	28
	A great deal	4	5	9
	Not answered	1	1	2
Total		33	41	74

Finally, issues about “Corporate Social Responsibility” are not included so regularly in the process of information-sharing”. In particular, identical number of responses (18 out of 74; i.e. 24.32 per cent) denoted “not at all”, “infrequently” and “sometimes” with variant figures between the two sectors. The corresponding response rates for nominal information-sharing are slightly higher for the unionised sector (11 out of 41; i.e. 26.83 per cent) in contrast with the non-unionised sector (seven out of 33; i.e. 21.21 per cent). For “infrequent” dissemination of information the figures are much higher for the unionised organisations (13 out of 41; i.e. 31.71 per cent) rather than the non-unionised organisations (five out of 33; i.e. 15.15 per cent). On the other hand, the majority of non-unionised workplaces (nine out of 33; i.e. 27.27 per cent) provide information about “Corporate Social Responsibility issues” quite moderately (i.e. “sometimes”), whilst the corresponding ratio for the unionised organisations is slightly lower (nine out of 41; i.e. 21.95 per cent). A slightly lower number of non-unionised organisations (seven out of 33; i.e. 21.21 per cent) denoted more regular information-sharing (i.e. “often”), whilst the ratio for the unionised companies is much lower (five out of 41; i.e. 12.95 per cent). Finally, only four non-unionised and two unionised extensively inform their employees about “Corporate Responsibility Issues”.

		Recognition of Trade Unions		Total
		No	Yes	
Information about	Not at all	7	11	18
Corporate Social	Infrequently	5	13	18
Responsibility Issues	Sometimes	9	9	18
	Often	7	5	12
	A great deal	4	2	6
	Not answered	1	1	2
Total		33	41	74

III. Consultation with Employees

There are scattered responses about consultation on “Financial Issues”, but mainly the majority of organisations (18 out of 74; i.e. 24.32 per cent) consult with their employees “sometimes” about such issues, with identical response rates amongst unionised (10 out of 41; i.e. 24.39 per cent) and non-unionised workplaces (eight out of 33; i.e. 24.24 per cent). Some organisations (13 out of 74; i.e. 17.57 per cent) also denoted “often”, with slightly higher incidence in the unionised sector (eight out of 41; i.e. 19.51 per cent) compared with the non-unionised sector (five out of 33; i.e. 15.15 per cent). In addition, six unionised and three non-unionised extensively consult with their employees about “Financial Issues”. On the other hand, the responses indicate that four unionised and five non-unionised workplaces “infrequently” provide consultation for such issues, and 12 organisations (with equal split between the two sectors) do not consult “at all” on these issues.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation	Not at all	6	6	12
about Financial	Infrequently	5	4	9
Issues	Sometimes	8	10	18
	Often	5	8	13
	A great deal	3	6	9
	Not answered	6	7	13
Total		33	41	74

More coherent is the consultation about “Production Issues”, since 25 organisations (i.e. 33.79 per cent) “often” consult with the employees about this type of issue with much higher incidence in unionised workplaces (18 out of 41; i.e. 43.90 per cent) in contrast with the non-unionised sector (seven out of 33; i.e. 21.21 per cent). In addition, nine responses (i.e. 12.16 per cent) indicate that consultation is “extensive”, with slightly higher occurrence in the unionised sector (i.e. 14.63 per cent) than in non-unionised workplaces (i.e. 9.09 per cent). A substantial number of organisations (18 out of 74; i.e. 24.32 per cent) responded that they consult “sometimes”, with split difference between unionised (nine out of 41; i.e. 21.95 per cent) and non-unionised workplaces (nine out of 33; i.e. 27.27 per cent). On the other hand, six organisations do not consult “at all” about “Production Issues” (five of which are non-unionised) and an identical number of organisations consult “infrequently”, with there being an equal split between the two sectors.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Production Issues	Not at all	5	1	6
	Infrequently	3	3	6
	Sometimes	9	9	18
	Often	7	18	25
	A great deal	3	6	9
	Not answered	6	4	10
Total		33	41	74

As it was previously noted, consultation about “Employment Issues” is quite widespread, especially in unionised workplaces. More specifically, the majority of organisations (22 out of 74; i.e. 29.73 per cent) do consult “often”, with higher incidence in the unionised sector (14 out of 41; i.e. 34.15 per cent) compared with the non-unionised sector (eight out of 33; i.e. 24.24 per cent). Similar is the incidence of responses that denoted “a great deal” of consultation in the unionised organisations (i.e. 34.15 per cent), whereas in non-unionised workplaces this level of incidence is quite minimal (two out of 33; i.e. 6.06 per cent). Furthermore, some organisations (16 out of 74; i.e. 21.62 per cent) denoted that they “sometimes” consult with their employees, with there being a slightly higher response rate in the non-unionised sector (eight out of 33; i.e. 24.24 per cent) compared with the unionised sector (eight

out of 41; i.e. 19.51 per cent). On the other hand, since “Employment Issues” are regularly included on collective bargaining agendas, it is to be expected that mainly non-unionised organisations will consult less frequently about such issues and this is confirmed by the findings of the survey, since 10 responses (i.e. 13.51 per cent) denoted “infrequently” and eight of them are from the non-unionised sector. Only four responses indicated that there is no consultation “at all” and three of them are from non-unionised workplaces.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Employment Issues	Not at all	3	1	4
	Infrequently	8	2	10
	Sometimes	8	8	16
	Often	8	14	22
	A great deal	2	14	16
	Not answered	4	2	6
Total		33	41	74

Similarly, the majority of unionised organisations (14 out of 41; i.e. 34.15 per cent) extensively consult with their employees about another core item of collective bargaining (i.e. “Pay Issues”), with there being a much lower incidence in the non-unionised sector (three out of 33; i.e. 9.09 per cent). In addition, some organisations (18 out of 74; i.e. 24.32 per cent) denoted that “often” consult with their employees about payment issues, with slightly higher proportional incidence in unionised workplaces (11 out of 41; i.e. 26.83 per cent) compared with the non-unionised sector (seven out of 33; i.e. 21.21 per cent). Most of organisations, in total (20 out of 74; i.e. 27.03 per cent), denoted “sometimes” in their responses, with higher rate in the unionised sector (12 out of 41; i.e. 29.27 per cent) compared with the non-unionised sector (eight out of 33; i.e. 24.24 per cent). A limited number of responses referred to “infrequent” consultation; none of the unionised organisations do not consult “at all”, whilst five non-unionised companies actually do.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Pay Issues	Not at all	5	0	5
	Infrequently	4	2	6
	Sometimes	8	12	20
	Often	7	11	18
	A great deal	3	14	17
	Not answered	6	2	8
Total		33	41	74

Quite widespread is the consultation on “Future Plans”, with 20 organisations (i.e. 27.03 per cent) denoting “often” on this matter and there is a much higher frequency in the unionised sector (15 out of 41; i.e. 36.59 per cent) when compared with the non-unionised sector (five out of 33; i.e. 15.15 per cent). Fewer organisations (i.e. 12.16 per cent) extensively consult about such issues, with there being a slightly higher response rate for unionised workplaces (six out of 41; i.e. 14.63 per cent) in contrast with the non-unionised sector (three out of 33; i.e. 9.09 per cent). A significant number of responses (15 out of 74; i.e. 20.27 per cent) were denoted as “sometimes”, with nearly identical ratios between unionised (eight out of 41; i.e. 19.51 per cent) and non-unionised workplaces (seven out of 33; i.e. 21.21 per cent). Six unionised and five non-unionised organisations “infrequently” consult about such issues; and finally, one unionised and six non-unionised organisations do not consult “at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Future Plans	Not at all	6	1	7
	Infrequently	5	6	11
	Sometimes	7	8	15
	Often	5	15	20
	A great deal	3	6	9
	Not answered	7	5	12
Total		33	41	74

The majority of organisations (21 out of 74; i.e. 28.28 per cent) “often” consult with their employees about “Leave and Flexible Working Arrangements”, with nearly identical response rates amongst the unionised (11 out of 41; i.e. 26.83 per cent) and non-unionised sectors (10 out of 33; i.e. 30.30 per cent). Slightly fewer respondents (17 out of 74; i.e. 22.97 per cent) denoted “sometimes”, with there being variant responses between the unionised (12 out of 41; i.e. 29.27 per cent) and non-unionised sectors (five out of 33; i.e. 15.15 per cent). Four unionised and three non-unionised organisations indicated that they “extensively” consult with their employees about these issues. On the other hand, 16 organisations, with an equal share between the two sectors, consult “infrequently” with their employees about such issues. Nearly nominal are the responses that are denoted as “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Leave and Flexible Working Arrangements	Not at all	3	2	5
	Infrequently	8	8	16
	Sometimes	5	12	17
	Often	10	11	21
	A great deal	3	4	7
	Not answered	4	4	8
Total		33	41	74

A vastly higher proportion of unionised organisations (10 out of 41; i.e. 24.39 per cent) claimed that they “extensively” consult with their employees about “Work Organisation Issues”, than non-unionised organisations (one out of 33). The majority of the respondents (21 out of 74; i.e. 28.38 per cent) suggested that provision of consultation “often” takes place for such issues with higher ratio in the non-unionised sector (11 out of 33; i.e. 33.33 per cent) than the unionised sector (10 out of 41; i.e. 24.39 per cent). Slightly fewer respondents (18 out of 74; i.e. 24.32 per cent) denoted “sometimes” with regard to this matter, with variant figures between the unionised (11 out of 41; i.e. 26.83 per cent) and non-unionised organisations (seven out of 33; i.e. 21.21 per cent). On the other hand, in seven non-unionised and six unionised workplaces, there is “infrequent” consultation about “Work Organisation”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Work Organisation	Not at all	2	0	2
	Infrequently	7	6	13
	Sometimes	7	11	18
	Often	11	10	21
	A great deal	1	10	11
	Not answered	5	4	9
Total		33	41	74

Likewise with “information-sharing”, there was moderate response rate about consultation with employees for “Training Strategy”, since 20 organisations (i.e. 27.03 per cent) “infrequently” consult with their employees and the figures in the unionised sector (14 out of 41; i.e. 34.15 per cent) are higher when compared with the corresponding figures in non-unionised workplaces (six out of 33; i.e. 18.18 per cent). Slightly fewer respondents (17 out of 74; i.e. 22.97 per cent) denoted “sometimes”, with there being nearly similar response rates amongst the unionised (nine out of 41; i.e. 21.95 per cent) and non-unionised organisations (eight out of 33; i.e. 24.24 per cent). Even fewer respondents (11 out of 74; i.e. 14.87 per cent) denoted “often”, and likewise, the response rates are almost identical across the unionised (six out of 41; i.e. 14.63 per cent) and non-unionised sectors (five out of 33; i.e. 15.15 per cent). Exactly, the same number of unionised (i.e. three out of 41; i.e. 7.31 per cent) and non-unionised organisations (i.e. five out of 33; i.e. 15.15 per cent) denoted in their answers “not at all” or “a great deal”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Training Strategy	Not at all	5	3	8
	Infrequently	6	14	20
	Sometimes	8	9	17
	Often	5	6	11
	A great deal	5	3	8
	Not answered	4	6	10
Total		33	41	74

Similar is the scattering of responses regarding consultation about “Equality and Diversity Issues”. Most of organisations (18 out of 74; i.e. 24.32 per cent) “infrequently” do consult, with identical response rates between the unionised (10 out of 41; i.e. 24.39) and non-unionised sectors (eight out of 33; i.e. 24.24 per cent). In addition, 14 organisations (i.e. 18.92 per cent) denoted “sometimes” in their responses, with a higher response rate at this level from the unionised sector (10 out of 41; i.e. 24.39 per cent) when compared with the non-unionised sector (four out of 33; i.e. 12.12 per cent). A rather limited response rate was designated as “often”, since only five unionised and three non-unionised organisations provided such a response. However, a bit higher response rate (10 out of 74; i.e. 13.51 per cent) denotes an “extensive” incidence and use of consultation for “Equality and Diversity Issues”, while the number of respondents is equally shared between the two sectors. On the other hand, seven non-unionised and four unionised organisations do not consult “at all” about these issues.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation Equality/Diversity Issues	Not at all	7	4	11
	Infrequently	8	10	18
	Sometimes	4	10	14
	Often	3	5	8
	A great deal	5	5	10
	Not answered	6	7	13
Total		33	41	74

More regularly, consultation is implemented for issues that involve “Pensions”. More specifically, the majority of organisations (18 out of 74; i.e. 24.32 per cent) “often” consult their employees about these issues, with more responses at this level coming from unionised workplaces (12 out of 41; i.e. 29.27 per cent) than from the non-unionised sector (six out of 33; i.e. 18.18 per cent). However, only eight organisations “extensively” provide the right of consultation on this matter and five of them are non-unionised. In addition, some respondents (14 out of 74; i.e. 18.92 per cent) indicated that consultation occurs “sometimes” with higher incidence in the non-unionised sector (eight out of 33; i.e. 24.24 per cent) than in the unionised sector (six out of 41; i.e. 14.63 per cent). In seven unionised and four non-unionised workplaces there is “infrequent” consultation, whilst eight unionised and four non-unionised organisations do not consult “at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Pensions	Not at all	4	8	12
	Infrequently	4	7	11
	Sometimes	8	6	14
	Often	6	12	18
	A great deal	5	3	8
	Not answered	6	5	11
Total		33	41	74

Extensive consultation is implemented about “Health and Safety Issues”, with higher incidence in the unionised sector. More specifically, the majority of organisations (28 out of 74; i.e. 37.84 per cent) quite extensively (i.e. “a great deal”) consult with their employees about such issues and this is significantly more common in unionised workplaces (19 out of 41; i.e. 46.34 per cent) than in the non-unionised sector (nine out of 33; i.e. 27.27 per cent). In addition, a quite substantial number of organisations (25 out of 74; i.e. 33.78 per cent) provide “often” the right of consultation and conversely the incidence is higher in the non-unionised sector (14 out of 33; i.e. 42.42 per cent) rather than the unionised sector (11 out of 41; i.e. 26.83 per cent). On the other hand, a limited number of organisations (eight out of 74; i.e. 10.81 per cent) denoted “sometimes” and six of these are unionised. Quite nominal are the responses that “designated” in their answers “infrequently” and “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Health and Safety Issues	Not at all	3	0	3
	Infrequently	2	2	4
	Sometimes	2	6	8
	Often	14	11	25
	A great deal	9	19	28
	Not answered	3	3	6
Total		33	41	74

Similarly with the case of information-sharing, the majority of organisations (23 out of 74; i.e. 31.08 per cent) moderately (i.e. “sometimes”) consult with their employees about “Technological Changes”, with far more responses at this level coming from the unionised sector (15 out of 41; i.e. 36.59 per cent) as compared with non-unionised workplaces (eight out of 33; i.e. 24.24 per cent). In addition, 10 organisations “often” provide consultation and six of them are unionised. Only five organisations, of which three of them are unionised, consult “extensively” with their employees. Nonetheless, eight unionised and seven non-unionised organisations responded that this practice was “infrequent” and 10 responded (with equal share amongst the two sectors) “not at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Technological Changes	Not at all	5	5	10
	Infrequently	7	8	15
	Sometimes	8	15	23
	Often	4	6	10
	A great deal	2	3	5
	Not answered	7	4	11
Total		33	41	74

When compared with “Technological Changes”, a nearly similar distribution of responses was received in relation to consultation about “Management and Supervision Arrangements”. That is, most of the organisations (17 out of 74; i.e. 22.97 per cent) moderately (i.e. “sometimes”) consult with their employees with there

being a much higher incidence in unionised workplaces (13 out of 41; i.e. 31.73 per cent) than in non-unionised workplaces (four out of 33; i.e. 12.12 per cent). Nevertheless, it is noteworthy that there is a much higher response rate for more regular (i.e. “sometimes”) consultation with the employees in non-unionised workplaces (nine out of 33; i.e. 27.27 per cent) compared with the unionised workplaces (four out of 41; i.e. 9.76 per cent). Only five organisations, of which three are unionised, denoted in their answers that there is “a great deal” of consultation on such issues. On the other hand, 15 organisations, which nine of them being unionised, “infrequently” consult with their employees and 10 organisations (with equal share of respondents between the two sectors) do not consult “at all”.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Management/Supervision Arrangements	Not at all	5	5	10
	Infrequently	6	9	15
	Sometimes	4	13	17
	Often	9	4	13
	A great deal	2	3	5
	Not answered	7	7	14
Total		33	41	74

Likewise with information-sharing, consultation about “Corporate Social Responsibility” “infrequently” takes place for most of organisations (21 out of 74; i.e. 28.38 per cent) with there being a much higher response rate for the unionised sector (15 out of 41; i.e. 36.59 per cent) as compared with non-unionised workplaces (six out of 33; i.e. 18.18 per cent). A substantial number of respondents (18 out of 74; i.e. 24.32 per cent) denoted that there is no consultation “at all” with the employees, with there being a nearly identical response rate amongst the unionised (10 out of 41; i.e. 24.39 per cent) and non-unionised workplaces (eight out of 33; 24.24 per cent). On the other hand, 12 organisations (with equal share of respondents between the two sectors) consult with their employees “sometimes”. Seven organisations, of which four are non-unionised, implement this practice more regularly (i.e. “often”). Only in three workplaces (which two of them are unionised) is consultation extensively applied.

		Recognition of Trade Unions		Total
		No	Yes	
Consultation about Corporate Social Responsibility Issues	Not at all	8	10	18
	Infrequently	6	15	21
	Sometimes	6	6	12
	Often	4	3	7
	A great deal	1	2	3
	Not answered	8	5	13
Total		33	41	74

Interview Schedule

I. Interview Questions with Trade Union and Employee Representatives

General Introductory Questions

- What is your job title and responsibilities in your organisation?
- How do you describe the current employment relations in your organisation?
- Have any changes been recently made in the implementation of employee voice arrangements due to legal or other policy interventions? If yes, what changes have been made? What do you expect in the future from these changes?
- To what extent are you aware of the ICE Regulations?

Employment Involvement Practices

- Which are the main features of employee voice arrangements in your organisation and how these arrangements are being designed?
- Which are the main features of the employee involvement practices in your organisation?
- Do you have trade union recognition agreement at your workplace, a work council and any other form of employee representation?

General Questions about Employee Involvement/Participation:

- Do you have regular downward or upward communication with the managers in your organisation (such as: team meetings between managers and employees)? How these procedures take place and over which issues?
- At which stage employee participation takes place? (i.e. Is it proactive or reactive? What is the timing of information-sharing and consultation?)
- Which other methods or arrangements are used? (such as: the negotiation process).
- Any other arrangements for the conduct of meetings? (such as: agenda setting, reporting of the minutes, newsletters etc).
- What is the impact of the ICE Regulations on these procedures?

- **Is there any signed agreement with the employees concerning the involvement and participation arrangements (such as: information sharing, communication, consultation or negotiation)?**
- **How do you understand/consider the terms: information, communication, consultation and negotiation?**

Information-Sharing

- Do you receive information for important working decisions? If yes, which type of information do you receive? How the process of information-sharing takes place?
- To what extent (or how often) are you being informed about strategic issues, such as: company strategy/plans for the future or major structural changes to the company?
- To what extent are you being informed about employment issues, such as: employment prospects, conditions of employment, training and skill development?
- To what extent are you being informed about financial issues, such as: budget of the organisation, sales, profits, market share etc?
- To what extent are you being informed about other issues?
- Have any changes been recently made in the way that you are being informed. If so, how these changes have been implemented (whether these changes are due to the legislation and whether they comply with the requirements of ICE Regulations)?
- Why do you believe that the process of information-sharing is important for your organisation? Which are your expectations from it?

Consultation of Employees

- How often are you being consulted before important working decisions are made?
- Is there any form of direct or indirect consultation at your workplace? If yes, about which issues you are being consulted? How the consultation process takes place? How often does it take place?

- To what extent (or how often) are you being consulted about strategic issues, such as: company strategy/plans for the future or major structural changes?
- To what extent are you being consulted about employment issues, such as: employment prospects, conditions of employment, training and skill development?
- To what extent are you being consulted about financial issues, such as: budget of the organisation, sales, profits, market share etc?
- To what extent are you being consulted about other issues?
- To what extent are you being consulted over working decisions that directly affect you?
- To what extent do you believe that your views are being heard?
- To what extent do you believe that you have influence over important working decisions?
- Have any changes been recently made in the way that you are being consulted? If so, how these changes have been implemented (whether these changes are due to the legislative provisions and whether they comply with the requirements of ICE Regulations)?
- Why do you believe that consultation is important for your organisation? Which are your expectations from it?

Closure

- In your opinion, which are the main benefits from the: (1) employee voice arrangements, (2) two-way communication between managers and you, (3) information-sharing from managers to you, (4) consultation process?
- In your opinion, which are the critical issues and factors that should be considered in designing the: (1) employee voice arrangements, (2) two-way communication between managers and you, (3) information-sharing from managers to you, (4) consultation process?
- In your opinion, which are the main forces that may constrain the implementation of the: (1) employee voice arrangements, (2) two-way communication between the managers and you, (3) information-sharing from managers to you, (4) consultation process?

- How do you believe that employee voice arrangements should be better designed and implemented in relation to the: (a) employee involvement practices, (b) information-sharing to employees, (c) consultation process?
- In your opinion, to what extent do you believe that the ICE Regulations have already affected or will possibly affect your workplace?
- In your opinion, whether the ICE Regulations shall have an influence on the context of British Industrial Relations?
- Is there anything else that you would like to add or you believe that I should have asked you about the use/implementation of Information, Consultation and Negotiation arrangements in your organisation?

II. Interview Questions with Chief Executives and HR Managers or Other Managers

General Introductory Questions

- What is your job title and responsibilities in your organisation?
- How do you describe the current employment relations in your organisation?
- What is the number of employees at your site?
- Have any changes been recently made in the implementation of ‘employee voice arrangements’ due to legal or other policy interventions? If yes, what changes have been made? What do you expect in the future from these changes?
- To what extent are you aware of the ICE Regulations?

Employment Involvement Practices

- Which are the main features of ‘employee voice arrangements’ (or employee involvement techniques) in your organisation and how these arrangements are being designed?
- Which are the main features of the employee involvement techniques in your organisation?
- Do you have trade union recognition agreement at your workplace, a work council or any other form of employee representation?

General Questions about Employee Involvement/Participation:

- Do you implement any form of downward or upward communication with the employees in your organisation (such as: team meetings between managers and employees)? How these procedures take place and over which issues?
- At which stage participation takes place? (Is it proactive or reactive? What is the timing of information-sharing and consultation?).
- Which other methods or arrangements are used? (such as: the negotiation process).
- Any other arrangements for the conduct of meetings? (such as: agenda setting, reporting of the minutes, newsletters etc).
- What is the impact of the ICE Regulations on these procedures?
- **Is there any signed agreement with the employees concerning the involvement and participation arrangements (such as: information sharing, communication, consultation or negotiation)?**
- **How do you understand/consider the terms: information, communication, consultation and negotiation?**

Information-Sharing

- Do you implement any form of direct or indirect of information-sharing? If yes, which type of information is provided? How the process of information-sharing takes place?
- To what extent (or how often) are employees being informed about strategic issues, such as: company strategy/plans for the future or major structural changes?
- To what extent are employees being informed about employment issues, such as: employment prospects, conditions of employment, training and skill development?
- To what extent are employees being informed about financial issues, such as: budget of the organisation, sales, profits, market share etc?
- Do you currently provide information for other issues?
- Have you recently made any changes in the way that employees are being informed? If so, how these changes have been implemented (whether these

changes are due to the legislation and whether they comply with the requirements of ICE Regulations)?

- Why do you believe that information-sharing is important for your organisation? Which are your expectations and objectives from it?

Consultation of Employees

- How often employees are being consulted before important working decisions are made?
- Do you implement any form of direct or indirect consultation? If yes, about which issues the consultation takes place? How the consultation is being implemented? How often does it take place?
- To what extent (or how often) are employees being consulted about strategic issues, such as: company strategy/plans for the future or major structural changes?
- To what extent are employees being consulted about employment issues, such as: employment prospects, conditions of employment, training and skill development?
- To what extent are employees being consulted about financial issues, such as: budget of the organisation, sales, profits, market share etc?
- To what extent are employees being consulted about other issues?
- How often workplace representatives are being consulted over important working decisions that directly affect the employees?
- To what extent do you believe that consultation has an influence in your workplace?
- Have you recently made any changes in the way that employees are being consulted? If so, how these changes have been implemented (whether these changes are due to the legislation and whether they comply with the requirements of ICE Regulations)?
- Why do you believe that consultation is important for your organisation? Which are your expectations and objectives from it?

Decision-Making Process

- How the employment involvement issues are being resolved and decisions are being implemented in relation to the “Information and Consultation arrangements”?
- How do you come to your final decision-making?
- Any involvement of ‘outside’ advisor? (such as: ACAS) If any, how did they provide advice? Why did you choose to have an ‘outside’ advisor?
- In general, who are involved in the decision-making? How and why?

Closure

- In your opinion, which are the main benefits from the: (1) employee voice arrangements, (2) two-way communication arrangements between you and the employees, (3) information-sharing from you to the employees, (4) consultation process?
- In your opinion, which are the critical factors and issues that you consider important in designing the: (1) employee voice arrangements, (2) two-way communication arrangements between you and the employees, (3) information-sharing from you to the employees, (4) consultation process?
- In your opinion, which are the main forces that may constrain the implementation of the: (1) employee voice arrangements, (2) two-way communication between you and the employees, (3) information-sharing from you to the employees, (4) consultation process?
- Do you have any future plans in relation to employee involvement practices, and more specifically, about the: (a) provision of information-sharing to the employees, (b) consultation process?
- How do you believe that employee voice mechanisms should be better designed and implemented in relation to the: (a) employee involvement practices, (b) information-sharing to the employees, (c) consultation process?
- To what extent, do you believe that ICE Regulations have already affected or will possibly affect your workplace?
- In your opinion, whether the ICE Regulations shall have an influence on the context of British Industrial Relations?

- Is there anything else that you would like to add or you believe that I should have asked you about the use and implementation of 'Information and Consultation arrangements/agreements' in your organisation?
- Is there anyone else in your organisation (e.g. other manager, director, employee representative or trade union representative) that may provide some further help in my research? Do you believe that it would be appropriate for me to meet other people, as well, from your organisation?

Case-Study One

I. Use of Various Forms of Direct Employee Involvement and Participation at the Felixstowe and Manchester Sites (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Felixstowe	Manchester
team-working/self-management	4	4
notice boards	4	5
team briefings/cascade communication	5	4
quality circles/project groups/TQ circles	3	3
suggestion schemes	1	1
employee ballots	2	2
employee opinion/satisfaction surveys	2	1
team meetings	5	3
meetings with the entire workforce	4	4
focus groups or workshops	5	4
staff newsletter/journal	4	3
individual letters to all employees	3	2
workplace-site intranet	5	3
e-mail reporting/updates	5	5

(The questionnaire was filled in by the HR manager).

II. Use of Various Forms of Indirect Employee Involvement and Participation at the Felixstowe and Manchester Sites (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Felixstowe	Manchester
European Work Councils	3	1
Joint Consultative Committees/employee representative bodies/employee forums	5	5
non-routinised written communications or meetings between employee representatives and senior managers	5	3

(The questionnaire was filled in by the HR manager).

III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Felixstowe Site (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Information Sharing	Consultation
Financial issues (e.g. financial performance/prospects, budgets/budgetary cuts etc)	5	3
Production issues (e.g. level of production/sales, quality of products/services, changes to products/services etc)	5	4
Employment issues (e.g. redundancies, reducing labour turnover, changes to employment levels/status etc)	5	5
Pay issues (e.g. wage/salary reviews, terms and conditions, bonuses, job evaluation etc)	5	5
Future plans (e.g. company expansion/contraction etc)	4	4
Leave and flexible working arrangements (including working time etc)	5	5
Work organisation (e.g. changes to working methods, allocation of work between employees etc)	5	4
Training strategy	5	5
Equality/Diversity issues	5	5
Pensions	5	5
Health and safety	5	5
Technological changes	4	4
Changes to management/supervision arrangements	5	4
Corporate social responsibility	5	5

(The questionnaire was filled in by the HR manager).

IV. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Manchester Site (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Information Sharing	Consultation
Financial issues (e.g. financial performance/prospects, budgets/budgetary cuts etc)	4	1
Production issues (e.g. level of production/sales, quality of products/services, changes to products/services etc)	4	3
Employment issues (e.g. redundancies, reducing labour turnover, changes to employment levels/status etc)	5	5
Pay issues (e.g. wage/salary reviews, terms and conditions, bonuses, job evaluation etc)	5	5
Future plans (e.g. company expansion/contraction etc)	4	2
Leave and flexible working arrangements (including working time etc)	2	2
Work organisation (e.g. changes to working methods, allocation of work between employees etc)	2	2
Training strategy	2	2
Equality/Diversity issues	2	2
Pensions	3	3
Health and safety	5	5
Technological changes	3	2
Changes to management/supervision arrangements	5	2
Corporate social responsibility	1	1

(The questionnaire was filled in by the HR manager).

V. Roles and Responsibilities for Management and Employee Representatives at the Felixstowe Site as Defined by the Constitution Agreement of the CCC Meetings

	Management Representatives
Roles	<p>Understand Company policies and procedures.</p> <p>Be impartial.</p> <p>Actively participate in the meetings.</p> <p>Show commitment and promote the Council.</p> <p>Communicate issues/concerns to management team where appropriate.</p> <p>Make information available to Employee Representatives.</p> <p>Show an appreciation of the issues.</p> <p>Provide support to Employee Representatives.</p> <p>Represent management's opinion and Company policies.</p> <p>Ensure that site issues are raised and discussed at the Council before implementation.</p> <p>Feedback to management team and middle management.</p> <p>Inform Council of business issues and priorities.</p>
Responsibilities	<p>Liaise between the Council and the Company management team.</p> <p>Issue filtration through investigation and prioritising concerns/issues.</p> <p>Communication of issues to Council and employees including feedback.</p> <p>Be involved in joint problem solving with the Council.</p> <p>Be visible to the constituents.</p> <p>Represent to the rest of the Company the collective view and decisions made by the Council.</p> <p>Meet deadlines detailed in the constitution.</p> <p>Solicit views relating to issues from the Council.</p> <p>Availability to attend meetings.</p> <p>Act on consensus views.</p> <p>Provide facilities and provisions for Council meetings.</p> <p>Complete actions and give feedback within agreed deadlines.</p> <p>Give feedback to the CCC on policy issues.</p> <p>Maintain confidentiality of CCC discussions where this is appropriate.</p>
Skills	<p>A senior manager within a function.</p> <p>Good team working skills.</p> <p>Good problem solving abilities.</p> <p>Good people skills - conciliator not confrontational.</p> <p>Good communication skills - with all levels of the organisation.</p> <p>Good listening skills.</p> <p>Ability to meet deadlines.</p>

	Employee Representatives
Roles	<p>Understand Company policies and procedures.</p> <p>Be impartial in their role as an Employee Representative.</p> <p>Actively and regularly participate in Council meetings.</p> <p>Voice the opinion of the constituency.</p> <p>Communicate their role and responsibilities to the constituency.</p> <p>Give feedback to the constituency.</p> <p>Show commitment and promote the Council and its activities.</p> <p>Undertake training specific to this role.</p>
Responsibilities	<p>Liaise between the Council and the constituents.</p> <p>Filter, prioritise and investigate concerns/issues raised by the constituency.</p> <p>Communication of issues to Council and employees including feedback.</p> <p>Be involved in joint problem solving with the Council.</p> <p>Be visible, making themselves known to the constituency and new starters.</p> <p>Represent to the rest of the Company the collective view and decisions made by the Council.</p> <p>Meet deadlines detailed in the constitution.</p> <p>Solicit views relating to issues from the Council meetings.</p> <p>Understanding everyone's concerns.</p> <p>To represent constituency interests in a clear and concise manner.</p> <p>Communicate with area Supervisor/Managers.</p> <p>Gathering of issues before the meeting using an appropriate method.</p> <p>Complete actions and give feedback within agreed timescales.</p> <p>Notify the Chairperson of any impending issues where possible.</p> <p>Participate in the induction process for new employees in their constituency, using the standardised CCC induction presentation available on the HR intranet.</p> <p>Deputise for a fellow employee representative in the same constituency, if absent.</p> <p>Maintain confidentiality of CCC discussions where this is appropriate and requested.</p>
Skills	<p>Good team working skills.</p> <p>Good problem solving abilities.</p> <p>Good people skills - conciliator not confrontational.</p> <p>Good communication skills - with all levels of the organisation.</p> <p>Good listening skills.</p> <p>Ability to meet deadlines.</p>

(Source: Constitution Agreement Document, April 2005).

Case-Study Two

I. Use of Various Forms of Direct Employee Involvement and Participation at the Bridgwater Depot (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Depot
team-working/self-management	4
notice boards	5
team briefings/cascade communication	4
quality circles/project groups/TQ circles	2
suggestion schemes	2
employee ballots	5
employee opinion/satisfaction surveys	4
team meetings	4
meetings with the entire workforce	3
focus groups or workshops	2
staff newsletter/journal	2
individual letters to all employees	2
workplace-site intranet	3
e-mail reporting/updates	3

(The questionnaire was filled in by the HR manager).

II. Use of Various Forms of Indirect Employee Involvement and Participation at the Bridgwater Depot (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Depot
European Work Councils	-
Joint Consultative Committees/employee representative bodies/employee forums	4
non-routinised written communications or meetings between employee representatives and senior managers	4

(The questionnaire was filled in by the HR manager).

III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Bridgwater Depot (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Information Sharing	Consultation
Financial issues (e.g. financial performance/prospects, budgets/budgetary cuts etc)	3	1
Production issues (e.g. level of production/sales, quality of products/services, changes to products/services etc)	4	4
Employment issues (e.g. redundancies, reducing labour turnover, changes to employment levels/status etc)	4	4
Pay issues (e.g. wage/salary reviews, terms and conditions, bonuses, job evaluation etc)	5	5
Future plans (e.g. company expansion/contraction etc)	4	4
Leave and flexible working arrangements (including working time etc)	4	3
Work organisation (e.g. changes to working methods, allocation of work between employees etc)	5	5
Training strategy	2	2
Equality/Diversity issues	3	3
Pensions	3	1
Health and safety	5	3
Technological changes	4	3
Changes to management/supervision arrangements	3	1
Corporate social responsibility	3	3

(The questionnaire was filled in by the HR manager).

Case-Study Three

I. Use of Various Forms of Direct Employee Involvement and Participation at the Yeovil Store (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Yeovil Store
team-working/self-management	5
notice boards	5
team briefings/cascade communication	5
quality circles/project groups/TQ circles	1
suggestion schemes	4
employee ballots	2
employee opinion/satisfaction surveys	2
team meetings	5
meetings with the entire workforce	5
focus groups or workshops	1
staff newsletter/journal	5
individual letters to all employees	5
workplace-site intranet	1
e-mail reporting/updates	1

(The questionnaire was filled in by the HR manager).

II. Use of Various Forms of Indirect Employee Involvement and Participation at the Yeovil Store (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Depot
European Work Councils	-
Joint Consultative Committees/employee representative bodies/employee forums	5
non-routinised written communications or meetings between employee representatives and senior managers	1

(The questionnaire was filled in by the HR manager).

III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Yeovil Store (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Information Sharing	Consultation
Financial issues (e.g. financial performance/prospects, budgets/budgetary cuts etc)	5	5
Production issues (e.g. level of production/sales, quality of products/services, changes to products/services etc)	4	4
Employment issues (e.g. redundancies, reducing labour turnover, changes to employment levels/status etc)	2	2
Pay issues (e.g. wage/salary reviews, terms and conditions, bonuses, job evaluation etc)	4	4
Future plans (e.g. company expansion/contraction etc)	4	4
Leave and flexible working arrangements (including working time etc)	4	4
Work organisation (e.g. changes to working methods, allocation of work between employees etc)	4	4
Training strategy	3	3
Equality/Diversity issues	1	1
Pensions	4	4
Health and safety	4	4
Technological changes	2	2
Changes to management/supervision arrangements	4	4
Corporate social responsibility	1	1

(The questionnaire was filled in by the HR manager).

Case-Study Four

I. Use of Various Forms of Direct Employee Involvement and Participation at the Main Head Office and Warehouse (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

team-working/self-management	5
notice boards	5
team briefings/cascade communication	2
quality circles/project groups/TQ circles	4
suggestion schemes	1
employee ballots	1
employee opinion/satisfaction surveys	4
team meetings	3
meetings with the entire workforce	1
focus groups or workshops	2
staff newsletter/journal	5
individual letters to all employees	3
workplace-site intranet	2
e-mail reporting/updates	5

(The questionnaire was filled in by the HR manager).

II. Use of Various Forms of Indirect Employee Involvement and Participation at the Main Head Office and Warehouse (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Depot
European Work Councils	-
Joint Consultative Committees/employee representative bodies/employee forums	4
non-routinised written communications or meetings between employee representatives and senior managers	4

(The questionnaire was filled in by the HR manager).

III. Level and Issues Included for Information-Sharing and Consultation with the Employees at the Main Head Office and Warehouse (1=not at all, 2=infrequently, 3=sometimes, 4=often, 5=a great deal)

	Information Sharing	Consultation
Financial issues (e.g. financial performance/prospects, budgets/budgetary cuts etc)	4	-
Production issues (e.g. level of production/sales, quality of products/services, changes to products/services etc)	5	3
Employment issues (e.g. redundancies, reducing labour turnover, changes to employment levels/status etc)	3	4
Pay issues (e.g. wage/salary reviews, terms and conditions, bonuses, job evaluation etc)	3	-
Future plans (e.g. company expansion/contraction etc)	4	4
Leave and flexible working arrangements (including working time etc)	3	-
Work organisation (e.g. changes to working methods, allocation of work between employees etc)	3	-
Training strategy	4	4
Equality/Diversity issues	3	-
Pensions	3	-
Health and safety	5	5
Technological changes	2	3
Changes to management/supervision arrangements	2	3
Corporate social responsibility	1	-

(The questionnaire was filled in by the HR manager).